

PATRICK C. MCGARRIGLE, ESQ., SBN 149008
MICHAEL J. KENNEY, ESQ., SBN 192775
PHILIP A. ZAMPIELLO, ESQ., SBN 198723
McGARRIGLE, KENNEY & ZAMPIELLO, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
PH: (818) 998-3300 FAX: (818) 998-3344

Attorneys for Judgment Creditor
Kenneth Barton

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

RMAIL LIMITED,

Plaintiff,

v.

AMAZON.COM, INC., et al.,

Defendants.

Civil Action No.: 2:10-CV-258-JRG
(And Related Cases)

**JUDGMENT CREDITOR KENNETH
BARTON'S OPPOSITION TO
RPOST HOLDINGS INC.'S, RPOST
COMMUNICATIONS LIMITED'S
AND RMAIL LIMITED'S OPPOSED
MOTION TO STRIKE NOTICE OF
LIEN**

Hearing Date Requested

AND RELATED CASES

Judgment Creditor Kenneth Barton ("**Barton**") opposes the Motion of RPost Holdings, Inc., RPost Communications Limited ("**RComm**") and RMail Limited ("**RMail**") (collectively, the "**RPost Parties**") to strike the Judgment Lien (Docket No. 550). For the reasons set forth herein below, Barton requests that the Court (a) deny the

1 Motion, or (b) order moving parties to further meet and confer and that the RPost Parties
 2 provide an under oath declaration from an officer/director (other than Khan and Tomkow)
 3 attesting to the matters referenced in Section II(B) below, and provide the supporting
 4 documents requested by Barton to substantiate the RPost Parties' Counsel's assertions by a
 5 date certain reasonable to moving parties and their counsel, and (c) set an outside hearing
 6 date with sufficient lead time for the supplemental meet and confer to proceed and
 7 declaration and documents to be provided and for the parties to either supplementally brief
 8 the issues or, if appropriate, stipulate to certain relief.

9
 10 **I. The RPost Parties' Motion Is Not Well Taken.**

11 **A. Factual and Procedural Overview.**

12 Barton obtained a \$4M judgment for fraud and intentional breach of fiduciary duty,
 13 among other claims, against RPost International Limited ("RIL") and its primary
 14 protagonists, Zafar Khan ("Khan") and Terrance Tomkow ("Tomkow"). The
 15 malfeasance of Mr. Khan, et al. included, without limitation, falsifying, for the purpose of
 16 attempting to steal Mr. Barton's 20% shareholder interest in RIL, various RIL corporate
 17 resolutions through forgery (cutting and pasting Mr. Barton's signature onto fabricated and
 18 altered "minutes" years after Mr. Barton was no longer with RIL and without Mr. Barton's
 19 knowledge or consent). Mr. Khan further admitted in testimony that the Barton
 20 "signatures" were placed on the fabricated minutes without Mr. Barton's knowledge or
 21 consent. Mr. Khan, et al. were also adjudicated to have destroyed the corporate
 22 shareholder registries of RIL which can only fairly be described, in addition to fraud, as an
 23 obstruction of the judicial process. The Judgment was entered on August 30, 2013 and the
 24 Superior Court, while encouraging the parties to discuss settlement, denied without
 25 prejudice Barton's pre-judgment request to add RMail and RComm as the real defendants'
 26 in interest. Moreover, a fraudulent transfer action is also pending in Los Angeles Superior
 27 Court which concerns the fraudulent transfers – engineered by Khan and Tomkow, et al. –
 28 of RIL's cash and IP rights (concerning the IP at issue in actions filed in this district, among

1 others) to RMail and RComm.

2 Khan and Tomkow filed Chapter 13 proceedings in the California Central District's
3 Bankruptcy Court in April 2013 (apparently just weeks after the claimed
4 RMail-Amazon/PayPal settlements and days after the RIL-Zix settlement). Khan and
5 Tomkow, however, have refused to provide the Trustee and creditors with information
6 concerning the RIL – Zix Corporation settlement and the settlements between RMail
7 (which Khan and Tomkow control) and Amazon and Paypal; yet, while concealing those
8 settlements and terms from the Trustee and creditors, Khan and Tomkow claim their shares
9 in RMail, RIL and RComm are worthless (\$0). McGarrigle Decl., Para. 9. Motions to
10 Convert the Khan and Tomkow bankruptcies to Chapter 7 (which would thereby place
11 control over the pending IP actions and Khan and Tomkow's shares in the hands of the
12 United States Trustee) are scheduled for hearing on November 5, 2013. McGarrigle
13 Decl., Ex. A. The Trustee has filed a declaration supporting the conversion motion which
14 catalogues myriad examples of Khan and Tomkow's non-compliance and obstruction.
15 McGarrigle Decl., Ex. B.

16 **B. Barton's Meet and Confer Efforts Have Been Stymied And**
17 **Not Met With Meaningful Cooperation/Disclosures By the RPost**
18 **Parties.**

19 Barton has attempted to resolve the issues presented by the Motion informally;
20 however, the RPost Parties' decision has been not to supply the requested declaration and
21 supporting evidence to substantiate their assertion that RIL has no interest in the
22 settlements and the IP and IP claims at issue in the Eastern District litigation. Given Khan
23 and Tomkow's submission of fabricated corporate records and duplicitous testimony (and
24 the fraud findings that followed) in the Los Angeles Superior Court, it is hardly
25 unreasonable for Barton to have required that the RPost Parties' prove-up their predictable
26 assertion that RIL has no interest in the IP or IP litigation or the eve-of-bankruptcy
27 settlements with Zix and Amazon/Paypal. Rather than the RPost Parties cooperation, the
28 RPost Parties have stonewalled and have since feigned dismay that substantiation of their

1 counsel's assertions - via a declaration and supporting documentation - has been
2 requested.

3 To be certain, Barton has engaged in extensive meet and confer efforts before and
4 since the Motion was filed with the RPost Parties electing not to provide the meet and
5 confer record to this Court. Upon receiving an initial contact from the RPost Parties'
6 counsel, Barton embarked upon a series of communications through counsel to enlist the
7 RPost Parties' cooperation in addressing RIL's interrelationship with the settlements and
8 pending IP litigation. McGarrigle Decl., Exs. C -E . At first, the RPost Parties' counsel
9 declined to provide written, substantive discussions. Then, during a conference call in
10 mid-September 2013, Barton advised the RPost Parties' counsel (in a fairly precise way
11 and in addition to the records requested in an earlier pre-call, September 17th email) of the
12 type of under oath affirmation and documentation necessary to allow Barton to verify that
13 the assertions of the RPost Parties' counsel were substantiated. The Rpost Parties'
14 counsel offered copies of IP "termination" agreements but was advised in advance those
15 records were unreliable, incomplete and insufficient to address the issues at hand. Rather
16 than comply, the RPost Parties ignored Barton's written and verbal requests and produced
17 the self-serving, Khan manufactured IP "termination" agreements anyway, but nothing
18 else. The RPost Parties then hurriedly filed the instant Motion, devoid of the substantive
19 meet and confer documents and failing to address Barton's reasonable requests to verify
20 counsel's assertions. Barton's efforts, pre- and post-Motion, have simply been rebuffed
21 as the RPost Parties have no interest in providing certified and verifiable evidence to
22 demonstrate that RIL does not have the interest in the IP Settlement proceeds, the IP itself
23 and the pending IP cases. Barton's request for cooperation, even as of this date, have been
24 met with the RPost Parties' obstruction or feigned confusion.

25 Under oath affirmations and delivery of the requested documents are reasonable and
26 necessary given Messrs. Khan and Tomkow's penchant for record manipulation and
27 destruction and piece-mealing the release of responsive documents to suit their own
28 purposes. Barton requests that the Motion be denied or the alternative relief (as indicated

1 in Section C below) be granted.

2 **C. The Motion Should Be Denied Or Postponed And The Rpost Parties**
3 **Ordered To Provide The Requested Declaration And Documents.**

4 In a good faith effort to resolve the issues underlying the Motion, Plaintiff renewed
5 and clarified is pre- and post-Motion requests for verification and documentation.
6 McGarrigle Decl., Exs. F and G. While the Court should deny the Motion, at the very
7 least, the RPost Parties should be ordered as follows:

8 A declaration from RPost International Ltd. (RIL) (and preferably from an
9 authorized board member other than Khan or Tomkow) under oath should be provided
10 (along with the requested proof), attesting that:

- 11 (a) it had assigned all of its rights and claims arising out of the patents to
12 which it held and/or had held through ownership and/or purported licenses,
13 when it did so and what the consideration therefor was (and that RIL provide
14 true and correct copies of documents evidencing same including board minutes
15 for RIL authorizing the claimed transactions and affirmation in writing that all
16 shareholders of RIL had specific notice of and had approved the above
17 transactions);
- 18 (b) Neither RIL (or any of RIL's officers/directors/shareholders) has and had
19 no rights (actual, residual, contingent, liquidated or unliquidated) to any of the
20 proceeds from any of the pending cases before the Court in the Eastern District
21 or payment therefrom at any time;
- 22 (c) the terms of the RIL - Zix Corp and Amazon/Paypal settlements have
23 been fully performed, what those economics terms are/were, and there are no
24 further payments due thereunder and that the Court does not have continuing
25 jurisdiction over said parties regarding performance of the settlements;
- 26 (d) provides true and correct copies of the RIL-Zix Corp and the
27 Amazon/Paypal settlements (in whatever form(s) taken – settlement agreement,
28 license agreement, royalty agreement, etc.) (and the economic terms clearly

1 articulated) and the executed and approved RIL and RPost Parties' board
 2 minutes authorizing same (and attesting to shareholder disclosure and approval)
 3 to verify same; and

4 (e) Khan and Tomkow had, after full disclosure of all material facts to the
 5 RIL and RPost Parties' shareholders, the authority to enter into the transactions
 6 and the RIL-Zix and Amazon/Paypal settlements.

7 The Court should set a schedule for the RPost Parties to comply and produce, for the
 8 parties to further meet and confer and for supplemental briefing (if any is necessary) in
 9 advance of a hearing on the Motion. The RPost Parties' ample record of "fact and loose"
 10 conduct – concealing from this Court the pending litigation in California (directly related
 11 to the IP here), concealing Khan and Tomkow's records fabrication and destruction,
 12 concealing the dubious and disputed "ownership" of the IP, concealing the Khan and
 13 Tomkow bankruptcies and their misleading and false filing with the U.S. Bankruptcy
 14 Court – warrants that a tempered and methodical consideration of these issues proceed and
 15 without permitting the RPost Parties to continue to manipulate whichever Court they are in
 16 front of aided by their obstruction and withholding of material information and
 17 documentation.

18 Barton respectfully requests that the Motion to Strike be denied and/or the
 19 alternative relief granted.

20 Date: October 16, 2013

McGARRIGLE, KENNEY & ZAMPIELLO, APC

21 By: 

22 Patrick C. McGarrigle, Esq.
 23 Michael J. Kenney, Esq.
 24 Attorneys for Judgment Creditor
 25 Kenneth Barton
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 27
 28

DECLARATION OF PATRICK C. McGARRIGLE

I, Patrick C. McGarrigle, declare,

1. I am an attorney licensed to practice law in the State of California and am principal in McGarrigle, Kenney & Zampietro, APC, counsel of record for Plaintiff Kenneth Barton. The following is based upon my personal knowledge and, if called upon, I could and would competently testify to the truth thereof.

2. Attached hereto as Exhibit "A" and incorporated fully herein by this reference is a true and correct copy of Mr. Barton's Motion to Convert the Khan Bankruptcy to Chapter 7 (without exhibits), filed on September 13, 2013. The hearing on the Motion to Convert is set for November 5, 2013. In the event that Motion is granted, the U.S. Bankruptcy Trustee will then take control of the corporate assets and liquidate same (Ex. B, Para. 16).

3. Attached hereto as Exhibit "B" and incorporated fully herein by this reference is a true and correct copy of the United States Bankruptcy Trustee's Declaration (and Exhibits) in support of the Barton Motion To Convert.

4. Attached hereto as Exhibit "C" and incorporated fully herein by this reference is a true and correct copy of my email to Lewis Hudnell, Esq. dated September 12, 2013 (in response to his initial request to withdraw the Judgment Lien) and included a copy of my August 19, 2011 letter placing said counsel on notice of the then-recently filed Fraudulent Transfer Action in Los Angeles Superior Court which concerns the very IP at issue in the various Eastern District IP legal actions (and a copy of that UFTA complaint).

5. Attached hereto as Exhibits "D" and "E" and incorporated fully herein by this reference are true and correct copies of my September 17, 2013 emails (1:02 p.m. and 2:19 p.m. PST) to Mr. Hudnell.

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1 6. During the conference call with Mr. Hudnell following the emails to him earlier
2 in the afternoon), and after hearing Mr. Hudnell's characterization of the settlements
3 involving RIL/Zix and the RPost Parties and Amazon/PayPal and the status of the
4 pending matters and IP ownership, I requested that Mr. Hudnell provide (in addition to
5 the information/documentation listed in the earlier emails) a) a declaration from an
6 officer/director of RIL attesting to the characterizations he was making as fact and b)
7 producing the various records (re-stated again in my email of October 16th). Mr.
8 Hudnell claimed that the IP owned or "licensed" to RIL had allegedly been relinquished
9 back to (insider-controlled) RMail and then over to RComm; I notified Mr. Hudnell that
10 merely producing those purported agreements (which Khan and Tomkow created) was
11 insufficient and incomplete in any case. I advised him, for example, that the
12 assignment of the IP and litigation rights evidence and corporate minutes and
13 shareholder approval thereof should be produced; and that the settlements with
14 Amazon/PayPal and Zix, of claims and IP rights which RIL owned (and/or were usurped
15 by Khan and Tomkow for their own aggrandizement), etc. Barton's requests are not
16 part of any "goose chase"; instead, given the RPost Parties' principals fraud, forgery and
17 duplicity in court filings and testimony, it is entirely reasonable for the RPost Parties to
18 be expected to provide the source documentation to permit Barton to verify the claimed
19 facts and relationships. That RIL – one of the Judgment Debtor's on the \$4M+
20 judgment – "settled" with Zix Corporation in April 2013 but there is no settlement
21 agreement or license agreement is unorthodox at best and is lock-step with
22 Khan/Tomkow's efforts to hide the proceeds of these IP cases, etc.

23 7. Attached hereto as Exhibits "F" and "G" and incorporated fully herein by this
24 reference are true and correct copies of my October 16, 2013 emails (8:05 a.m. and 2:40
25 p.m. PST) to Mr. Hudnell (along with his emails from the same date linked therein).

26 8. The Rpost Parties have, thus far, declined to provide any declaration as
27 requested or the requested documentation.

28 ///

1 9. Khan and Tomkow filed Chapter 13 proceedings in the California Central
2 District's Bankruptcy Court in April 2013 (apparently just weeks after the claimed
3 RMail-Amazon/PayPal settlements and days after the RIL-Zix settlement). Khan and
4 Tomkow, however, have refused to provide the Trustee and creditors with information
5 concerning the RIL – Zix Corporation settlement and the settlements between RMail
6 (which Khan and Tomkow control) and Amazon and Paypal; yet, while concealing those
7 settlements and terms from the Trustee and creditors, Khan and Tomkow claim their
8 shares in RMail, RIL and RComm are worthless (\$0).

9 I declare under the penalty of perjury under the laws of the United States of
10 America that the foregoing is true and correct.

11 Executed this 16th day of October, 2013 at Chatsworth, California.


12 
13 _____
14 Patrick C. McGarrigle

EXHIBIT A

**Attorneys for Creditor/Adversary Plaintiff
Kenneth Barton**

8681-009\BK\Barton-Motion to Convert to Chapter 7 9-8-13

TO: THE HONORABLE JUDGE VINCENT P. ZURZOLO, UNITED STATES BANKRUPTCY JUDGE; DEBTOR ZAFAR KHAN AND HIS COUNSEL OF RECORD; THE CHAPTER 13 TRUSTEE AND ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT, on October 7, 2013, in Courtroom 1368, at 11:00 a.m., or as soon thereafter as the matter may be heard, Creditor/Adversary Plaintiff Kenneth Barton ("Creditor," "Barton" or "Movant"), by and through his attorneys of record, hereby moves for an order converting the Chapter 13 Bankruptcy Case of Debtor Zafar Khan ("Debtor" or "Khan") to a Chapter 7 Case under 11 U.S.C. Section 1307(c).

If you wish to oppose or respond to this motion, you must file a written response with the Clerk of the United States Bankruptcy Court at Edward R. Roybal Building and Courthouse, 255 East Temple Street, Suite 940 Los Angeles, California 90012, serve a copy of it on the Movant, United States Trustee, and all other parties requesting notice, at the address set forth above and upon the Chapter 13 Trustee (see attached service list) no less than 14 days prior to the above hearing date. If you fail to file a response to this motion within such time period, the Court may treat such failure as a waiver of your right to oppose the motion and may grant the requested relief.

This Motion is based on the following:

1. Debtor Zafar Khan's unsecured, liquidated and non-contingent pre-petition claims exceeded and exceed the eligibility maximum for a Chapter 13 case (11 U.S.C. §109(e)), and, as such, cause under 11 U.S.C. §1307(c) exists to convert the case to Chapter 7 as conversion is in the best interests of the creditors and the estate. Based upon the Los Angeles Superior Court's statements of decision and Judgment in the "Pre-Petition Superior Court Action"¹ (which claims and Khan's liability were established pre-petition, with that Court poised to complete the 2nd phase of its damages determination after the cause was submitted for decision just prior to the petition filing date), Debtor's unsecured obligations to Creditor Barton exceed \$4,070,081.91 including compensatory and punitive damages for fraud, intentional breach of fiduciary duty and

¹ *Barton v. RPost International Limited, Zafar Khan, Terrance Tomkow, et al.*, LASC Case No. YC061581.

1 conversion, etc. In addition, the pre-petition claims of unscheduled creditors – Rpost
2 International Limited (“RIL”) and shareholders of RIL and its affiliates – also render Khan
3 ineligible under Chapter 13. As a result, Debtor does not qualify under Chapter 13 as his
4 pre-petition unsecured debt exceeds the eligibility maximum. Under the totality of the
5 circumstances in this case (as described more fully below), the best interests of the
6 creditors and the estate warrant that the instant case be converted to Chapter 7.

7 2. While Chapter 13’s eligibility bar coupled with the extent of Debtor’s actual
8 unsecured debt are sufficient to preclude Debtor’s continued maintenance of a Chapter 13
9 case and to justify conversion of the case to Chapter 7 for the reasons set forth below, other
10 “indicia” of cause under 11 U.S.C. §1307(c) also exist to warrant conversion to Chapter 7.
11 Under the totality of the circumstances, any one of the facts below warrant conversion to
12 Chapter 7: (a) Debtor concealed and misrepresented his assets in his Schedules, (b) Debtor
13 has obstructed and abused the Bankruptcy process as part of a larger scheme to defraud the
14 United States Bankruptcy Court, the United States District Court (in at least the Eastern
15 District of Texas), the Los Angeles Superior Court, Creditor Barton and the myriad other
16 creditors of Debtor (both those to whom notice of this bankruptcy proceeding was given
17 and those who were not); (c) Debtor filed the Petition to interfere with the Los Angeles
18 Superior Court’s entry of Judgment, and did so at a time when Debtor was admittedly
19 solvent (at least \$310,000 in net worth, and without accounting for Debtor’s shareholder
20 interests in the on-going corporate businesses (RPost International Limited (“RIL”),
21 RMail Limited (“RMail”) and RPost Communications, Ltd. (“RComm”) [which he and
22 co-debtor Terrance Tomkow control]), (d) Debtor’s petition was filed in bad faith²; and
23 (e) Debtor’s plan is non-confirmable.

24 3. Because the Chapter 13 proceeding presently continues to allow Khan to
25 control the assets including those which he concealed and defiantly refuses to disclose to
26 the Trustee and creditors, Barton respectfully requests that this case be converted to

27 _____
28 2 A determination of “bad faith” is not a requirement for conversion, only that “cause” for
conversion be demonstrated under Section 1307(c). *In Re Henson*, 289 B.R. 741 (N.D.
Calif. 2003).

Chapter 7 forthwith as same is in the best interests of the creditors and the estate. As the Court stated in *In Re Henson*, 289 B.R. 741 (N.D. Calif. 2003):

“In this case, the interests at stake would be better served through conversion of the case for administration by a Chapter 7 Trustee than through dismissal of the case. Conversion will place the estate in the hands of an independent Court-appointed Trustee, preserve such assets as exist and allow for potential recovery of additional ones through use of avoiding powers, maintain the Code's priorities among creditors in an orderly distribution, and permit Creditor to seek exception of its claim from discharge to pursue Debtor outside of bankruptcy if it wishes to do so. On balance, that result is preferable to dismissal, which would leave all creditors and claimants to fend for themselves in State Court, with an absent Debtor and none of the avoiding powers provided by the Code.”

Creditor Barton and all other creditors of Debtor will be best served by an independent trustee's active involvement to secure, protect and preserve, and liquidate the myriad assets for recovery by the creditors through the prompt seizure thereof and taking control of the entities referenced above to ensure that the Debtor's creditors are paid and Debtor and his representatives' manipulation of the legal system and subject businesses is substantially curtailed, if not prevented and unwound.

This Motion is and will be based upon this Notice, the attached Memorandum of Points and Authorities in support of the Motion, the Declaration of Patrick C. McGarrigle (and Requests for Judicial Notice therein) and the Compendium of Evidence in Support of the Motion (Volumes 1 and 2) filed concurrently therewith, the complete files and records in this action, the oral argument of counsel and such other and further evidence as the Court might deem just and proper.

Dated: September 13, 2013

McGARRIGLE KENNEY & ZAMPIELLO, APC

By: 

Patrick C. McGarrigle, Esq.

Attorneys for Creditor/Adv. Plaintiff Ken Barton

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MEMORANDUM OF POINTS AND AUTHORITIES

I. CONVERTING DEBTOR'S BANKRUPTCY TO CHAPTER 7 IS SUPPORTED BY CAUSE AS DEBTOR IS NOT QUALIFIED FOR CHAPTER 13 AND THE TRUSTEE'S CONTROL OVER AND LIQUIDATION OF THE DEBTOR'S INDIVIDUAL AND CORPORATE ASSETS IS IN THE BEST INTERESTS OF THE CREDITORS/ESTATE.

By this Motion, Barton move the Court for an order converting the instant Chapter 13 case to Chapter 7 (conversion, rather than dismissal, being in the best interests of Khan's creditors and the estate) because (a) the Debtor is ineligible for Chapter 13, as Debtor's pre-petition debts exceed the Chapter 13 limitation, and (b) as separate but additional cause for conversion, Debtor has misrepresented and concealed assets on his schedules (original and amended), has misused and defiantly refused to cooperate with the Bankruptcy process (including the Trustee's requests for specific asset documentation and information), filed the petition solely to interfere with the Superior Court entering its decision on the valuation of the common shares (held by Khan, Barton and Tomkow in RIL) (as the valuation/damages issue had been submitted to the Court pre-petition and required the Court to simply choose the value per share and multiply same by the number of Barton's Shares in RIL fraudulent stolen by Khan, et al.), and has otherwise prosecuted this Bankruptcy in bad faith having secreted away assets in the preference period and refusing to disclose same. Khan's practice of playing fast and loose with every court he is in front of – submitting forged corporate resolutions and destroying corporate records in the State Court Action, concealing the State Court fraud decision and this bankruptcy from the United States District Court in Texas (presiding over multiple consolidated patent infringement cases (IP)) and now with this Court (by submitting misleading schedules and concealing assets) - must be stopped and conversion of this case is the first step in that direction.

Under the totality of the circumstances, Chapter 7 conversion is the appropriate measure to ensure that the creditors of Debtor are paid and that the estate, managed by a Trustee concerned about the recovery of assets for the estate and creditors (and not by the

1 Debtor whose self-interest and manipulation is the stuff of legends), realizes a substantial
2 (but otherwise never to be shared and distributed) benefit. Debtor made the election to
3 bring these matters before the Bankruptcy Court and, as a result, he should not be rewarded
4 with a dismissal, but instead, the conversion of the case to Chapter 7 and an orderly,
5 unbiased control over and disposition of the assets should occur for the benefit of the
6 creditors and the estate without delay.

7 **A. Underlying Facts.**

8 **1. The State Court Fraud Decision Against Khan, et al.**

9 Barton was a co-founder of RIL, a technology-software firm whose patents and
10 products included registered email and electronic transaction verification functionality.
11 During the course of litigation between Barton and RIL concerning RIL's failure to pay
12 some \$450,000+ in compensation and expense reimbursements, Barton learned in a
13 deposition of Khan in the summer 2009 that RIL/Khan/Tomkow had secretly taken
14 Barton's 6,016,500 shares in RIL and returned them to RIL's treasury (purporting to divest
15 Barton of his near 20% equity position in the company). Shortly thereafter, Barton
16 commenced the Pre-Petition State Court Action in January 2010 for fraud, intentional
17 breach of fiduciary duty, conversion, violations of Business & Professions Code Section
18 17200, etc. The liability and damages phase of the trial proceeded in March/April 2012.
19 In August 2012, the Superior Court adjudged Khan, Tomkow and RIL to have committed
20 fraud, etc. including, without limitation, engaging in corporate records forgery, corporate
21 records destruction and other conduct sufficiently egregious to also warrant the imposition
22 of punitive damages against Khan and Tomkow. Ex. 10. The Superior Court had already
23 received extensive share and enterprise valuation evidence regarding RIL (Ex. 9);
24 however, the Superior Court initially decided (in August 2012) to award Barton the return
25 of his shares as an alternative remedy (plus \$100,000 in emotional distress damages and
26 punitive damages, among other relief). The punitive damages phase, which had been
27 bifurcated, proceeded to trial in November 2012. At the conclusion of that phase, the
28 Superior Court, having heard sufficient evidence of Khan/Tomkow's gutting of RIL's

1 assets – through transfers of IP and cash from RIL to RMail and RComm (both then
2 newly-formed Bermuda entities which Khan/Tomkow controlled), reversed his decision
3 regarding the return of the shares and decided to proceed with additional share/enterprise
4 valuation evidence and hearings so as to award Barton the value thereof. Declaration of
5 Patrick C. McGarrigle (“**McGarrigle Decl.**”), Para. 15; Compare Ex. 10 & Ex. 15. The
6 Court appointed an independent expert (proposed by Khan/Tomkow/RIL) who supplied a
7 report and gave testimony regarding the valuation of the RIL shares and, inherent therein,
8 the enterprise value of RIL as of the June 2009 conversion date. Exs. 14 & 25. As the
9 Superior Court stated on April 4, 2013, its remaining task was to assign the value to the
10 common shares of RIL, multiply same by the number of Barton shares (to award share
11 valuation damages) and multiply same by the number of Khan and Tomkow common
12 shares in RIL to assist in the Court’s punitive damages determination. Ex. 25, p.
13 99:5-100:14. Khan agreed that the entire matter was deemed submitted as of April 12,
14 2013 (two days before the Petition was filed). Ex. 25, p. 102:6-7; 104:16-105:13.

15 However, on the eve of the Superior Court issuing its Revised Statement of
16 Decision awarding further damages (based on the extensive share valuation evidence the
17 Court had received) and punitive damages against Debtor, among others, Khan filed a
18 Sunday night Chapter 13 petition on April 14, 2013. Exs. 1 & 2. The Superior Court
19 had, all pre-petition, conducted three trial phases: liability and damages in March/April
20 2012, punitive damages in November 2012 and additional damages/valuation hearings in
21 February/early April 2013. The Petition filing simply delayed the Superior Court entering
22 its further damages and punitive damages award based on the pre-petition conduct of
23 Khan, et al.; the Court confirmed it was “prepared to rule.” Ex. 27. On or about May 3,
24 2013, this Court issued an order lifting the automatic stay concerning the Pre-Petition
25 Superior Court Action so that the Superior Court could issue its ruling and Judgment, etc.
26 On June 18, 2013, the Superior Court issued its Ruling on Punitive Damages and Revisions
27 to Statement of Decision (“**RSOD**”) finding that the common shares of RIL (Barton, Khan
28 and Tomkow all held common RIL shares) were worth \$.64 per share and, multiplying said

1 sum by Barton's 6,016,500 common shares, Khan, Tomkow and RIL were liable in the
2 further sum of \$3.9M for their fraud, etc. in the theft of those shares. Ex. 15, p. 3. On
3 August 30, 2013, the Superior Court entered its Judgment against Khan, Tomkow & RIL
4 for \$3.8M, plus punitive damages against Khan and Tomkow, etc. Ex. 17.

5 No sooner had the Superior Court entered its Judgment but Khan and Tomkow have
6 (underscoring why Chapter 7 conversion is necessary) RIL attempting, *after-the-fact*, to
7 conduct three years of RIL shareholder meetings (meetings for the years when
8 Khan/Tomkow had orchestrated the asset transfers without shareholder knowledge or
9 approval) (Ex. 24[B]). Yet, in sharp contrast, RIL/Khan/Tomkow's attorney falsely
10 represented to the Superior Court that same day (on August 30, 2013) that RPost had
11 complied with all "corporate formalities." Ex. 24[A], p. 29:21-23.

12 2. Khan's Asset Accumulation & Concealment.

13 Debtor Khan is a shareholder, officer and director of RPost International Limited
14 ("RIL"), RMail Limited ("RMail"), RPost Communications, Ltd. ("RComm") (the "RIL
15 Parties"). Ex. 26, p. 21:6-13; 31:24-32:2. RIL, formed in approximately 2000, was
16 founded by Barton, another debtor (Terrance Tomkow, Bankruptcy Case No.:
17 2:-13-bk-19712-WB), and Debtor Khan. Barton owned 6,016,500 common shares in
18 RIL; the Superior Court determined that his shares were converted by Khan and Tomkow
19 (and RIL) in June 2009 (Exs. 10 & 15) (though, Khan/Tomkow/RIL asserted that Barton's
20 Shares had allegedly been unwound earlier – though they admittedly destroyed the
21 corporation's shareholder registries which would evidence such facts and forged corporate
22 records to cover up their theft).

23 During the period of mid-2009 through October 2010, RIL raised at least \$6M from
24 investors, leaving \$4M net capital (*after* deducting \$2M in claimed accrued expenses) for
25 approximately the same period. Ex. 12, p. 165:26-169:24. **Said funds have never been**
26 **accounted for by RIL/Khan/Tomkow and refuse to do so in these proceedings.** After
27 the purported RIL asset transfer to RComm in March 2011, RComm (with the same
28 business, assets, shareholders, officers/directors, officers, website, business plan and

1 contracts as RIL) similarly raised at least another \$5M+ from March 2011 thru July 2012
2 (Ex. 26, p. 17:3-10); Yet, RComm/Khan/Tomkow have never accounted for that
3 capital and refuse to do so in the proceedings. Similarly, as discussed below,
4 Khan/Tomkow have utilized their insider company, RMail, to seize for themselves IP
5 rights and RIL's corporate opportunities that RIL funded and were within RIL's
6 business-sphere and then sued SWIFT, Amazon/Paypal and others and then settle and
7 retain for themselves (and in secret) the proceeds from those suits and without disclosure to
8 the RIL/RComm shareholders or, thereafter, the Trustee. Ex. 12, p. 101:19-102:20;
9 103:20-104:13; Ex. 26, p. 25:22-27:15; 28:16-23. IP settlements typically involve cash
10 payments and royalty/licensing agreements – yet, Khan/Tomkow defiantly refused to
11 disclose the RMail settlements at all or the amount and location of the settlement proceeds
12 and terms (and bank statements) to the Trustee while concurrently and incongruously
13 claiming their shares in RMail are worthless. Ex. 5; Ex. 26, p. 14:16-23; 16: 2-5, 9-10,
14 15-25; 21:14-25. The corporate share assets of Khan/Tomkow (which corporate finances
15 Khan brazenly conceals so as to “support” his false representation that his shares in the
16 RPost entities are “\$0”) more than amply demonstrate that conversion is in the best
17 interests of the creditors and estate.

18 Yet, the success of RIL business enterprise was not something that Khan/Tomkow
19 ever wanted Barton to be a part of (as if the forgery of corporate resolutions and corporate
20 record destruction were not evidence enough of their intent to freeze Barton out of any
21 realization of the value of his equity), even if he prevailed, as he did, in the litigation.
22 Knowing that they were engaging in their fraud and that Barton would pursue and
23 ultimately did pursue them for their fraud and breaches of fiduciary duty, etc. Khan and
24 Tomkow proceeded with a series of acts (in addition to concealing and failing to account
25 for the stunning equity accumulated as noted above):

26 (a) They formed RMail and secretly (with no disclosure to and approval by
27 RIL's shareholders) syphoned off nearly a \$1M of RIL cash in the summer of 2009/2010 to
28 put valuable IP in the control of Khan/Tomkow's insider company (RMail) (McGarrigle

1 Decl., Para. 30 [See, Ex. 11, p. 27:5-15; 28:19-29:25; 30:15-23]);

2 (b) They concealed the taking of the corporate IP opportunity and diversion
3 of corporate assets from RIL to their asset-less Bermuda company RMail³ [*Id.*];

4 (c) Compounding their duplicity and plan for self-aggrandizement (and again
5 with no disclosure to and approval by RIL's shareholders), they carved out for RMail's use
6 only (Ex. 29, p.2) a valuable "field of use" within the IP (IP which was purchased with
7 syphoned off RIL funds) that verifies electronic banking/sales transactions and purported
8 to exclude this valuable "field of use" from the artificial construct of "license-back" of the
9 IP to RIL (whose cash paid for the entirety of the IP in the first place); and

10 (d) After suing Amazon and PayPal for damages based on the alleged
11 infringement of the "carved-out" patent, caused RMail to settle with Amazon/PayPal in
12 March 2013 (some 30 days before the Petition was filed) (Exs. 21 & 22), but have refused
13 to disclose and continue to conceal the settlement amounts and settlement documents (the
14 Petition and "Amended" schedules disclose nothing regarding these IP litigations and
15 settlement) while continuing to speciously claim their interests in RMail are worthless.
16 Ex. 26, p. 14: 16-23; 16:2-5, 9-10, 15-25; 21: 14-25. Khan also caused RIL to settle with
17 Zix Corp. days before the Petition was filed (Exs. 18-20), but has refused to disclose and
18 continues to conceal (again, the Petition and "Amended" schedules disclose nothing
19 concerning this IP litigation and settlement) the settlement sums received and the
20 settlement documents, all to frustrate and materially interfere with the Trustee/Creditor's
21

22 ³ *Industrial Indemnity Co. v. Golden State Co.* (1953) 117 Cal.App.2d 519, 533
23 ("corporate officer or director may not seize for himself to the detriment of his company
24 business opportunities in the company's line of activities which the company has an
25 interest in or a prior right to obtain and that if he seizes them in violation of his fiduciary
26 duty the corporation may claim for itself all benefits so obtained by him.). Here, RIL
27 signed the NDA and was listed as the purchaser on the patent acquisition contracts until the
28 last minute when Khan/Tomkow swapped in their new and admittedly asset-less entity
(Ex. 12, p. 104:14-20), RMail, to be the buyer (but having RIL guaranty the obligation it
was already poised to buy for itself). Then, after the secret swap of entities, Khan/RMail
secretly peeled-off of a valuable "field of use" within that very patent for itself (Ex. 29, p.
2) to the exclusion of RIL's shareholders/creditors (and then collecting undisclosed
settlements with Amazon and PayPal [Ex. 21-22]).

1 rights and interests. Ex. 26, p. 37:15-38:4.

2 The 2nd act in the Khan/Tomkow asset concealment and transfer charade occurred in
3 early 2011 and continues to this day. After taking nearly \$1M in cash out of RIL in
4 2009/2010 and raising more than \$6M (in the name of RIL) between July 2009 and
5 October 2010, Khan and Tomkow augmented their asset transfer scheme. In early 2011,
6 Khan and Tomkow engineered the transfer of 99% of RIL's assets to another new Bermuda
7 company, RComm, ostensibly to assist garnering new investors because, by using a new
8 company name and re-stating the share composition, new investors would not be deterred
9 from investing by the number of financing rounds RIL had undertaken in the prior 10
10 years. RIL became RComm with a new name, but the same initial shareholders (save
11 certain common shareholders who apparently were not rolled into RComm), same officers,
12 same directors, same patents, same contracts, same website, same advisors, same counsel,
13 same offices, etc. Even the equity raises were nearly identical: In the 20 months before
14 the RIL to RComm transfer, RIL raised \$6M in new equity at preferred share prices
15 ranging from \$3.85 to \$4.75 per share; In the 16 months after the RIL to RComm asset
16 transfer, RComm raised at least \$5M in new equity (from late March 2011 through late
17 July 2012) at preferred share prices ranging from \$5.00 to \$5.75 per share. Ex. 11, p.
18 76:24-78:20.

19 Yet, Debtor Khan incredibly asserts – while concealing the financial records of the
20 entities and failing to account for millions in investor capital – that his common and
21 preferred shares in these companies are worth “\$0” or are “speculative” (Ex. 2, p. 7). This
22 patently untenable plea (orchestrated through the artificial construction of asset transfers
23 between companies which Khan/Tomkow control overall) cries out for conversion and
24 Trustee seizure and liquidation. For example, (a) RComm investors are paying at or
25 above \$5.75 per share for a typical interest payment preference (and with the same
26 purported re-sale restrictions as on Khan's preferred shares) (Ex. 12, p.178:5-15), but Khan
27 claims *his identical preferred shares* (183,000 of them) are worth \$0; (b) the RIL
28 enterprise and shares had been valued by two different experts (Exs. 9 & 14) establishing

1 the common share values at \$2.43 per common share with a near \$100M enterprise
2 valuation or \$.64 per common share at a \$33M enterprise value⁴, but neither of these
3 experts said the RIL shares were worth \$0, nor did the Superior Court; and (c) RMail
4 settled with Amazon/Paypal in March 2013 and RIL settled with Zix Corporation in April
5 2013 (Exs. 18-22), but Khan has defiantly refused to disclose the amounts paid in the
6 preferential settlements, where the funds were deposited and/or disbursed and will not
7 provide the settlement documents, all to interfere with the bankruptcy process and the
8 Trustee/Creditors' ability to assess the availability of assets to satisfy the debts. In short,
9 (a) as of June 2009 (and before Khan artificially dissected and transferred out RIL's assets
10 to RMail and RComm), the value of just Debtor's common shares in RIL was between
11 \$3.8M and \$14M, derived from a \$3.85 preferred share pricing as of said date (and without
12 accounting for the \$5.75 preferred share pricing as of late 2012, which causes the value of
13 the commons to have increased as well (as the value of the commons is extrapolated from
14 the enterprise value. As the preferred share prices continued upward to \$5.75 per share,
15 the value of the commons, too, increase, and therefore the value of Khan's common shares
16 also increased (See, Ex. 9 and compare 2/07 (\$2.04) to 6/09 (\$2.43) common share
17 valuation derived from preferred shares at \$3.00 and \$3.85 per, respectively); and (b)
18 Debtor's preferred shares in RComm (RIL preferred shares that were transferred and
19 exchanged into preferred shares in RComm), are worth at least the \$1M (183,000 pref
20 shares x \$5.75). *In re Marriage of Connolly* (1979) 23, Cal.3d 590.

21 Between Khan's deliberate withholding of financial records, bank statements,
22 equity contributions, IP asset valuations and IP settlements and coupled with the value of
23 Khan's shares based on the determinations made the experts and the Superior Court and
24 based on Khan's own admissions, in addition to Khan's debts making him ineligible for
25 Chapter 13, Khan's assets demonstrate that the best interests of the creditors and the estate
26 will only have an opportunity to be realized vis-à-vis a Chapter 7 conversion and the
27 immediate appointment of a trustee to seize and liquidate the Khan interests in the
28

4 See, Exs. 9 (p. 3, Sched. 3) & 14 (Ex. 5B therein).

1 companies and marshal the corporate assets to be available for distribution or sale.

2 **B. As Khan Was/Is Ineligible To File & Maintain This Chapter 13**
3 **Case And "Cause" Under Section 1307(c) Is Present, Conversion To**
4 **Chapter 7 Is Warranted.**

5 11 U.S.C. § 1307(c) allows the Court, upon a showing of cause, to convert the
6 Chapter 13 Bankruptcy case to a Chapter 7 case (or dismiss the Chapter 13) "whichever is
7 in the best interests of creditors and the estate." Evaluating whether a Chapter 13 case
8 should be dismissed or converted is a two-step process. Once the court determines that
9 cause exists (here, for example, ineligibility due to the amount of pre-petition debts), the
10 court must then decide between conversion and dismissal based upon the best interest of
11 the creditors. *In re Nelson* (9th Cir. BAP 2006) 343 B.R. 671, 675.

12 **1. The Law Re: Determining Chapter 13 Eligibility.**

13 As an overview, the maximum threshold of unsecured debt a debtor may have to file
14 and maintain a Chapter 13 case is \$383,175.00, effective as of the April 1, 2013
15 adjustment. 11 U.S.C. §109(e). If a debtor is not eligible for relief under Chapter 13,
16 that ineligibility is cause for dismissal under §1307(c). 8 *COLLIER ON BANKRUPTCY*,
17 ¶1307.04 (Alan N. Resnick & Henry J. Sommer, 15th ed. rev. 2005).

18 Under Section 109(e), the determination of the pre-petition debts is guided by
19 various statutes and case authority. Under the Bankruptcy Code, a debt means "liability
20 on a claim." 11 U.S.C. § 101(12). A "claim" is defined as a "right to payment, whether or
21 not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,
22 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured [.]" 11 USC §
23 101(5)(A). In evaluating the Debtor's debts for purposes of Chapter 13 eligibility, the
24 Court assesses whether the debt/claim in question is noncontingent and liquidated. 11
25 USC Section 109(e). To that end, "[T]he case law uniformly holds that 'if all events
26 giving rise to liability occurred prior to the filing of the bankruptcy petition,' the debt is not
27 contingent." *In Re Fostvedt*, 823 F.2d 305, 306 (9th Cir. 1987) (affirmed denial of C13
28 Plan where pre-petition sums were neither contingent or unliquidated); *In Re Keenan*, 201

1 B.R. 263, 264-265 (USBC SD Calif. 1996) (debtor motion requesting estimation of
2 creditor's claim was denied where claim was neither contingent ["All of the events upon
3 which liability could be imposed occurred prepetition. Accordingly, her claim is not
4 contingent, and is not amenable to estimation under Section 502(c) on that ground."] or
5 unliquidated). Moreover, a claim is liquidated where it is subject to "ready determination
6 and precision in computation of the amount due." *In Re Fostvedt*, supra; *In Re Keenan*,
7 supra, at p. 265-266 (state court's determination and ability, based on the status of the
8 proceedings there, to determine the sum due renders the claim liquidated, barring
9 estimation under Section 502); *In Re Wenberg*, 902 F.2d 768 (9th Cir. 1990) (state court's
10 post-petition award of attorneys' fees and costs as part of that court's pre-petition
11 award/judgment against debtor *constituted part of the "liquidated debt for purpose of*
12 *determining debtor eligibility under 11 U.S.C. Section 109(e).*") (Emphasis Added).⁵

13 **2. The Law re: Other Indicia of "Cause" For Conversion/Dismissal**
14 **Under Section 1307(c).**

15 For Chapter 13 cases, Section 1307(c) specifically enumerates ten non-exhaustive
16 circumstances in which a court may dismiss a case of convert it to Chapter 7. *Ekeke v.*
17 *United States*, 133 B.R. 450, 452 (S.D. IL. 1991) ("The listed `causes' are not exhaustive,
18 nor is the court limited to the listed `causes.'"). The language in 1307(c) parallels the
19 language contained in 1112(b), which governs dismissal and conversion in Chapter 11
20 cases. *In re Ferri*, 2010 Bankr. LEXIS 1178 at *9, 2010 WL 141817 at * 3 (Bankr.
21 D.N.M. 2010). Section 1307(c) also requires "notice and a hearing" prior to conversion.

22 Both 11 U.S.C. § 1307(c) and 11 U.S.C. § 1112(b) establish a two-step process for
23 considering the question of conversion or dismissal. *In re Nelson*, 343 B.R. 671, 674 (9th

24 _____
25 ⁵ The amount of a debtor's debt for Chapter 13 eligibility purposes under § 109(e) is
26 normally determined by reference to the schedules. *Scovis v. Henrichsen (In re Scovis)*,
27 249 F.3d 975, 982 (9th Cir. 2001). However, the Bankruptcy Court is permitted to
28 consider matters beyond the schedules in assessing the debtor's eligibility and bad faith.
In Re Guastella, supra at 918 (Affirmed order granting motion to dismiss for ineligibility
under Chapter 13 and finding bad faith filing of schedules in conflict with state court
tentative decision in pending litigation).

1 Cir. BAP 2006) (Sections 1307(c) and 1112(b) “establish a two-step analysis for dealing
2 with questions of conversion and dismissal”: (a) cause must be established, and (b) “a
3 choice must be made between conversion and dismissal based on the `best interest of
4 creditors and the estate.’”). The choice of one remedy over the other is to be made upon
5 consideration of the best interests of creditors and the estate. 11 U.S.C. § 1307(c); *In re*
6 *Jensen*, 425 B.R. 105, 109-111 (Bankr. S.D.N.Y. 2010). **“The interests of the debtor
7 are not paramount. Generally, a case should be converted rather than dismissed
8 when there are assets available for distribution to creditors.”** William L. Norton, Jr. &
9 William L. Norton III, *Norton Bankruptcy Law and Practice*, 3rd Ed. § 148:1 (2012)
10 (Emphasis Added). In considering whether to grant a § 1307(c) conversion motion, the
11 court may consider only the best interests of the creditors and the estate; the debtor’s best
12 interests cannot be considered. *In re Sobczak*, 369 B.R. 512, 518 (9th Cir. BAP 2007).

13 In addition to ineligibility based on the sum of pre-petition debts of the debtor, there
14 are other indicia of “cause” which warrant an order granting a motion to convert and policy
15 reasons for conversion abound as well. *First*, the policy reasons for conversion to Chapter
16 7, over dismissal, are inherent to the purpose of Section 109(e) – to protect and promote the
17 best interests of the creditors and the estate. The Court in *In re Henson*, 289 B.R. 741
18 (2003) provided guiding analysis:

19 “If the case were dismissed with prejudice, Creditor, Zlotoff,
20 Wells Fargo Bank, the Internal Revenue Service, and anyone
21 else to whom Debtor incurred a pre-petition or post-petition
22 debt would have to compete with each other for such assets as
23 could be located (including whatever Debtor may have taken,
24 or had sent, to Canada). **However, if the case were converted**
25 **to Chapter 7, § 348 would apply to provide that all pre-conversion**
26 **creditors and claimants would receive whatever pre-conversion assets**
27 **were available in an orderly distribution conducted by a professional**
28 **Chapter 7 Trustee according to the priorities fixed by the Code.** With
respect to Creditor’s judgment for willful infringement, Creditor has argued
that such a claim would be non-dischargeable in Chapter 7 under
§ 523(a)(6)—that may or may not be so pursuant to recent
Case law such as *In re Jercich*, 238 F.3d 1202 (9th Cir.2001)
and *In re Su*, 290 F.3d 1140 (9th Cir.2002), but Creditor

1 would have a chance to test its theory in Chapter 7 and, if
2 successful, could pursue Debtor outside of bankruptcy just
3 as if the case had been dismissed.... **Finally, a Chapter 7 Trustee**
4 **could apply § 547 and § 549 to avoid, respectively,**
5 **any pre-petition preferential transfers and unauthorized postpetition**
6 **transfers, which remedies are provided by the Code**
7 **but not available to creditors outside of bankruptcy.**

8 As noted by *Staff* (at 260): ‘The standard for choosing conversion or
9 dismissal based on “the best interest of creditors and the estate” implies a
10 balancing test to be applied through case-by-case analysis.
11 In the end, the determination is a matter for sound judicial
12 discretion.’ **In this case, the interests at stake would be better served**
13 **through conversion of the case for administration by a**
14 **Chapter 7 Trustee than through dismissal of the case.**
15 **Conversion will place the estate in the hands of an**
16 **independent Court-appointed Trustee, preserve such assets**
17 **as exist and allow for potential recovery of additional**
18 **ones through use of avoiding powers, maintain the Code's**
19 **priorities among creditors in an orderly distribution, and**
20 **permit Creditor to seek exception of its claim from discharge**
21 **to pursue Debtor outside of bankruptcy if it wishes to**
22 **do so. On balance, that result is preferable to dismissal,**
23 **which would leave all creditors and claimants to fend for**
24 **themselves in State Court, with an absent Debtor and none**
25 **of the avoiding powers provided by the Code. The reasons**
26 **supporting conversion over dismissal are equally applicable**
27 **regardless of whether the cause to remove the case from**
28 **Chapter 13 is a bad faith filing, unreasonable and prejudicial**
delay, or any other form of cause.” (Emphasis Added).

19 As demonstrated more fully below, Khan has assets - personally and which he controls
20 through his corporations – which, when liquidated, provide a substantial source of
21 recovery for the creditors and estate. Allowing Khan’s continued control over,
22 concealment of and use of the assets to the great prejudice of the creditors and estate is
23 abhorrent to the very policy purpose behind Section 109(e) and an abuse of the bankruptcy
24 process.

25 ***Second*, additional ‘cause’ – beyond ineligibility due to the amount of pre-petition**
26 **debt – is established through a variety of indicia including the debtor’s bad faith. In**
27 **addition to the factors specifically enumerated in Section 1307(c), a Chapter 13 petition**
28 **filed in bad faith may be dismissed for “cause.” *In re Leavitt* (9th Cir. 1999) 171 F.3d**

1 1219, 1224-1225; *In re Eisen* (9th Cir. 1994) 14 F.3d 469, 470. It is well established that
2 lack of good faith constitutes “cause” to invoke the relief under Section 1307(c).⁶ The *In*
3 *Re Henson* Court further discussed the bad faith standard: “In the Ninth Circuit, an
4 additional form of ‘cause’ for involuntary dismissal consists of filing a Chapter 13 petition
5 in bad faith, see *In re Eisen*, 14 F.3d 469, 470 (9th Cir.1994) (“*Eisen*”): A Chapter 13
6 petition filed in bad faith may be dismissed ‘for cause’ pursuant to 11 U.S.C. § 1307(c)
7 [citations omitted].... To determine bad faith a bankruptcy judge must review the ‘totality
8 of the circumstances.’ *In re Goeb*, 675 F.2d 1386, 1391 (9th Cir.1982). A judge should ask
9 whether the debtor “misrepresented facts in his [petition or] plan, unfairly manipulated the
10 Bankruptcy Code, or otherwise [filed] his Chapter 13 [petition or] plan in an inequitable
11 manner.” *Id.* at 1390; *In re Leavitt*, *supra*, 171 F.3d at 1224 [Debtor’s initial schedules
12 undervalued assets and Debtor offered nothing to largest unsecured creditor which was
13 deemed inequitable considering Debtor’s assets]; *In re Eisen*, *supra* [Chapter 13 petition
14 dismissal appropriate as having been filed in “bad faith” based in part upon debtor’s
15 contradictory and misleading statements of his property interests; a factor relevant in
16 determining whether a Chapter 13 Petition has been filed in bad faith includes
17 misrepresentations of fact by debtor in his Plan or **any evidence that debtor filed his**
18 **Petition in an inequitable manner**]; *In re Alt* (6th Cir. 2002) 305 F3d 413, 421 (Chapter
19 13 petition dismissed as having been filed in “bad faith” where Debtor understated income
20 and failed to schedule tax debt that put her over the jurisdictional limit.). “A debtor’s
21 history of filings and dismissals is relevant.” *In re Nash*, 765 F.2d 1410, 1415 (9th Cir.

22
23 6 “[W]e have held that bad faith does provide “cause” to dismiss Chapter 11 and Chapter
24 13 bankruptcy petitions...The Bankruptcy Code specifically mentions good faith in
25 Chapters 11 and 13 when it permits a court to confirm a payment plan only if it is proposed
26 in good faith. In *[Eisen v. Curry (In re Eisen)*, 14 F.3d 469 (9th Cir. 1994),] we linked the
27 good faith requirement implicit in a Chapter 13 bankruptcy with the good faith requirement
28 for proposing a payment plan when we stated that ‘[t]o determine if a petition has been
filed in bad faith courts are guided by the standards used to evaluate whether a plan has
been proposed in bad faith.’...The Bankruptcy Code’s language and the protracted
relationship between reorganization debtors and their creditors lead us to conclude that bad
faith per se can properly constitute “cause” for dismissal of a Chapter 11 or Chapter 13
petition...” *Neary v. Padilla (In re Padilla)*, 222 F.3d 1184, 1192-93 (9th Cir. 2000).

1 1985). Bad faith also exists where the debtor only intended to defeat state court litigation.
2 In re Chinichian, 784 F.2d 1440, 1445–46 (9th Cir.1986); In Re Docco, 2010 WL 703113
3 (N.D. Calif. 2010). It should further be noted that a finding of bad faith does not require
4 fraudulent intent on the part of the Debtor. Leavitt, supra, at 1224.

5 Conversion to Chapter 7 from Chapter 13 is also warranted where the Debtor has
6 not presented and cannot present a confirmable plan. In Re Lindsey, 183 B.R. 624 (D.
7 Idaho 1995). In In Re Crittenden, 2012 WL 1492321 (D. Montana 2012), the Bankruptcy
8 Court iterated the test for determining whether a Chapter 13 plan was submitted in good
9 faith:

10 “In Leavitt, 171 F.3d at 1224, the Ninth Circuit held that in
11 determining whether a chapter 13 plan was proposed in good
12 faith, a bankruptcy court should consider (1) whether the
debtor misrepresented facts in his or her petition or plan,
unfairly manipulated the Code, or otherwise filed his or her

13 petition or plan in an inequitable manner; (2) the debtor's
14 history of filings and dismissals; (3) whether the debtor
intended to defeat state court litigation; and (4) whether
15 egregious behavior is present. See also In re Cavanagh, 250
16 B.R. 107, 114 (9th Cir. BAP 2000). After considering the
Leavitt factors and the evidence in this case, the Court concludes
17 that conversion of the case to Chapter 7 is in the best interests of
creditors and the estate.”

18 Under anyone of the above standards, an order converting Khan's case to Chapter 7 is also
19 supported by good cause beyond Khan's patent ineligibility for Chapter 13 relief.

20 **3. Khan Is Ineligible For Chapter 13 Case; As Such, Cause**
21 **For Conversion Is Present.**

22 *First*, Barton's claim against Khan – documented through a series of pre-petition
23 and post stay-being-lifted orders and Judgment – is and was non-contingent and liquidated
24 as of the petition filing date. As such, because the Barton claim exceeds \$4M against
25 Khan, Khan is ineligible for Chapter 13 and conversion to Chapter 7 is warranted.

26 The history of the Pre-Petition State Court Action is not subject to any good faith
27 dispute by Khan. See, Section I(A)(1) above. Here, as of April 12, 2013, pre-petition,
28 the Superior Court has already adjudged (in August 2012) Khan to have committed fraud –
corporate resolutions forged (cutting and pasting Barton's signatures on 'back-dated'

1 resolutions designed to strip Barton of his shares in RIL), corporate shareholder registries
2 destroyed (to hide the evidence of Barton's share ownership), etc., and awarded damages
3 and the return of Barton's Shares. The Court had conducted a three day punitive damages
4 phase trial and, thereafter, having decided to issue share value damages rather than what
5 would have been (due to the asset transfers by Khan and Tomkow from RIL to
6 RMail/RComm) the inequitable return to Barton of shares in an asset-gutted RIL,
7 conducted several additional trial hearings regarding share valuation damages and
8 commissioned and received a valuation report from an independent expert. The final step
9 for the Court was "arithmetic": Pick the common share value (the Court chose the [Khan
10 suggested] independent expert's value) and multiply it by Barton's 6,016,500 common
11 shares and publish his share damages award (and, for punitive damages consideration,
12 multiply the same per common share value by the Khan and Tomkow common shares as
13 part of the Court's net worth evaluation). Ex. 25, p. 100:2-14.

14 Yet, just days after the cause was submitted for the Court to do just that, Khan filed
15 his midnight petition. Hence, Khan knew, at the time of his Petition filing, that he would
16 not meet the Chapter 13 threshold because the Superior Court was poised to issue its
17 further damages award, which was readily determinable by the Court as all the evidence
18 (testimonial and documentary) had been introduced to the Court over a 12 month period.
19 Underscoring the improper motive for the petition filing, Khan did not seek additional time
20 to file his Chapter 13 plan; instead, he rushed to do so ahead of the Superior Court's RSOD
21 to leave the false impression that Khan's unsecured debt somehow was at a level that
22 qualified him for Chapter 13 status. In mid-June 2013, the Superior Court issued its
23 Revised Statement of Decision establishing Khan's liability to Barton at over \$4M (and, by
24 virtue of the Court's \$.64 per common share value conclusion, Khan's own common shares
25 in RIL could then be valued at more than \$3.9M). Thereafter, the Superior Court's
26 Judgment was entered on August 30th, further affirming that Khan's indebtedness for
27 fraud, intentional breach of fiduciary duty, conversion exceeds \$4M. Under the facts and
28 controlling law, any plea by Khan that Barton's claim was anything but non-contingent and

1 liquidated would be folly.

2 **Second**, and independent of Barton's claims against Khan, the claims of other
3 creditors arising from pre-petition wrongful acts of Khan, Tomkow, et al. – including
4 creditors that Khan did not schedule – render Khan ineligible for Chapter 13. **First**, RIL
5 has a claim of at least \$1M against Khan and Tomkow for defense costs and, separately
6 though related, for the full amount (for indemnity) of the liability of RIL to Barton in the
7 Pre-Petition State Court action (liability which derives from Khan/Tomkow's (and others)
8 pre-petition fraud and breaches of fiduciary duty). Pursuant to RIL's Bye-Laws (Ex. 8,
9 Para. 77.3), Khan and Tomkow were required to post bonds for the benefit of the
10 corporation as security for the fees and costs incurred by RIL in defending them in the
11 Pre-Petition State Court Action. At the 341A hearing on May 28, 2013, Khan admitted
12 that he did not post that bond (and falsely claimed RIL, hit with the near \$4M judgment
13 because of Khan, et al.'s fraud, is not a creditor in his case), a pre-petition wrongful act that
14 left and now leaves RIL as a creditor for the defense expenses and for the Barton Judgment.
15 Ex. 26, p. 34:8-35:8. Had Khan posted the bond as required (and for at least the value of
16 the insurance policy which was depleted defending Khan/Tomkow and which would have
17 been available to RIL to pay some portion of the Judgment), RIL would then at least have
18 had a source of recovery (for fees/costs and/or indemnity) as RIL's \$1M D&O policy was
19 fully exhausted in the litigation. Ex. 28. Clearly, the obligation to post the bond was a
20 pre-petition event (which should have been done part and parcel of RIL commencing the
21 defense of Khan and Tomkow when the Barton lawsuit was filed in January 2010. Yet,
22 and underscoring their insider-control of RIL, Khan and Tomkow neither posted the bond
23 nor did they list RIL as a creditor and, as such, failed to give RIL's shareholders notice of
24 the bankruptcy proceedings as well. Failing to schedule RIL as a creditor and RIL's
25 pre-petition claim of at least \$1M (if not the full \$4M due on the Barton Judgment) also
26 render Khan Chapter 13 ineligible.

27 **Third**, the myriad other proofs of claim filed against Khan in the Chapter 13 case
28 reflect pre-petition claims in the tens of millions. The Court's docket reflects proofs of

1 claim – separate from Barton’s POC – well beyond the Chapter 13 threshold (in an order of
2 magnitude far in excess of 10).

3 Hence, pursuant to Section 1307(c), because the pre-petition claims against Khan
4 exceed the maximum debts for Chapter 13 eligibility, Barton’s Motion herein is well taken
5 and conversion to Chapter 7 should be ordered. For the reasons set forth in Section B(3)
6 below, conversion is most definitely in the best interests of the creditors and estate of Khan
7 and an independent trustee should be immediately appointed to seize the assets and take
8 immediate steps to protect the interests of the creditors and the estate therein.

9
10 **4. Additional, Overwhelming Good Cause Exists Which Compels**
11 **The Conversion of Khan’s Bankruptcy To Chapter 7.**

12 In addition to Khan’s ineligibility, this Court can rely on any number of other
13 indicia of “cause” to grant the instant Motion and convert Khan’s case to Chapter 7.

14 **a) Khan’s Schedules Contain Misrepresentations and**
15 **Conceal Material Assets.**

16 Ostensibly, since 2000, Debtor’s entire livelihood and economic success is tied to
17 his ownership and control of the RPost Companies – RIL, RMail and RComm and their
18 affiliates and subsidiaries around the world. However, to mislead the Court and Trustee,
19 Khan has incredibly scheduled his shares in these three companies as valued at \$0 and
20 concealed and continues to conceal the financial details and documents of the RPost
21 companies so as to interfere with the Trustee/Creditors’ evaluation of what is already
22 known to be Khan’s bogus “\$0” share valuations listed in his schedules.

23 *First*, Khan’s RIL shares, at least as of June 2009 (and before Khan and Tomkow
24 orchestrated the transfers of cash and IP out of RIL and usurped RIL’s IP opportunities) are
25 valued at at least the same \$.64 per common share as the Superior Court determined.
26 With at least 6M common shares in RIL, Khan’s RIL share interest is worth at least \$3.8M.
27 That share value, moreover, does not account for at least \$4M (\$6M raised less the
28 purported “accrued” expenses) in capital raised in RIL from July 2009-October 2010
which is unaccounted for in RIL’s own financial records and which Khan continues to
refuse to account for. *Second*, Khan’s preferred shares (which were in RIL and then were

1 apparently rolled into the reconstituted in RComm) are worth at least \$1.035M; Khan
2 admitted that RComm was selling preferred shares (with all the restrictions Khan will
3 complain about in an Opposition) for \$5.75 per preferred shares. With 183,000 preferred
4 shares in his name, Khan's preferred shares in RComm are worth at least \$1.045M. In Re
5 Marriage of Connolly, supra. Hence, Debtor's filing of his original schedules and
6 amended schedules both concealing the above-referenced valuations and then
7 misrepresenting that the value as "zero" constitute sufficient evidence of bad faith to justify
8 conversion (In Re Gaustella and In Re Henson) and underscore Debtor's efforts to
9 manipulate and misuse the Bankruptcy proceedings.

10 **Third**, Khan does not account for the RComm capital accumulation (above
11 purported "accrued" expenses) of at least \$5M from March 2011 through July 2012 and
12 thereafter. Khan has at least 750,000 common shares in RComm; if RComm has
13 additional equity (cash) above expenses and liabilities of several million dollars (a fair
14 conclusion but one which Khan's non-disclosure and obstruction is designed to thwart the
15 final determination thereof), then Khan's common shares have value (independent of the
16 enterprise value being determined). **Fourth**, with respect to his RMail shares, Khan
17 would have the Court believe that the RIL's shareholders were informed of fully and
18 approved Khan/Tomkow's (a) transfer of \$750,000-\$1M from RIL to RMail for the
19 purpose of allowing RMail to "buy" two very valuable, core patents (the "**219/334**
20 **Patents**"), (b) secret set-up of an insider Bermuda company that Khan/Tomkow would
21 only allegedly be 10% shareholders of but Khan (who admits that he controls all of the
22 RPost Companies purse strings and is the only person able to answer about the company's
23 business affairs [Ex. 26, p. 25:22-27:25; 28:16-23] has allowed a purported salesman from
24 Costa Rica to own and control 90% of the entity that controls the key patents to RIL's
25 business, while the investors in RIL and, later RComm, have no interest in RMail or the IP
26 (and no say in the terms that Khan imposes for this "license back" of only a part of the IP
27 which was acquired using RIL's funds/guaranty); (c) plan, while purporting to "license
28 back" to RIL the patents bought with RIL's funds, to carve out from the patent – for their

1 own aggrandizement – a field of use within the 219/334 Patents that verifies electronic
2 banking and on line sales transactions and then secretly (with no disclosure to and
3 approval by the RIL/RComm shareholders) prosecutes actions and retains the settlements;
4 (d) settle, in March 2013, just these “carve-out” patent infringement claims against
5 Amazon/PayPal but refuse to disclose the payments and other consideration received by
6 RMail (or Khan, etc.) and refuse to disclose the settlement agreement, notwithstanding
7 their occurrence within 90 days of the filing; and (e) settle, in April 2013 with the press
8 announcement the day after the petition filing, that “RPost” has settled another IP action
9 against Zix Corporation (a competitor in the email verification platform), but refuse to
10 disclose the payments and other consideration received by the RPost entity(ies) and refuse
11 to disclose the settlement agreement. And, as noted below, Khan has defiantly refused to
12 produce the bank statements and other financial information for the RIL/RComm/RMail
13 entities so that the Trustee and creditors could assess the duplicitous \$0 share valuations
14 that Khan has represented under oath. If RMail received \$1M from Amazon/PayPal,
15 Khan’s shares – and there is little doubt that Khan owns (and/or beneficially owns and
16 controls) far more than 5% of RMail and that the 90% “majority” purported shareholder is
17 a strawman (since Khan/RIL set up the corporation and bank account for the shareholder’s
18 company in Belize and used Khan’s prior business name – Momentex – as the shill for his
19

20 7 Imagine the number of electronic banking and sales transactions that occur every day in
21 just the U.S. and then imagine what the value of the patent is that allows for verification of
22 those transactions. Even RPost’s press releases tout that its patents cover the tracking of
23 “billions” of business advertising emails (Ex. 6, Ex. 6 therein). Hence, it is no surprise
24 then that Khan refuses to provide the Trustee and Creditors with the settlement amounts
25 and settlement documents in the SWIFT and Amazon/PayPal settlements because those
26 sums are likely sufficient to make a substantial contribution towards the payout of the
27 claims against Khan, including on Barton’s Judgment. **What is alarming, particularly**
28 **given the recent NSA matters in the news, is that an adjudged fraud and corporate**
document forger, etc. (Khan) has the ability – through the RPost registered email
product which acts as a clearinghouse for all emails using its services – to view and
retain the emails and attachments thereto of government agencies, law firms,
insurance companies, etc. and do so without any accountability or safeguards to
ensure secrets are not being divulged, mis-used or worse. Placing these assets in the
hands of a Trustee is all the more compelling under these circumstances.

1 activities) – have substantial value (independent from the value that the IP itself has which
2 Khan’s obstruction also seeks to prevent this Court/The Trustee/Creditors from learning
3 about and evaluation).

4 The Federal District Court in the Eastern District of Texas has viewed Khan’s
5 duplicity in that Court – concealing these bankruptcy proceedings and the fraud
6 determination - as grounds to stay the IP litigation which Khan his prosecuting for
7 RIL/RMail/RComm. Ex. 23. Conversely, by concealing the IP litigation, settlements
8 and cash/equity received from the scheduled, Khan continues to play fast and loose, telling
9 one Court only what Khan wants it to know and telling this Court only what Khan wants to
10 reveal to suit the purpose of this sham Chapter 13 filing and obstructing the discovery and
11 consideration of assets that impact the value of the shares in the RPost companies.

12 Khan has (1) concealed assets which he controls through the RPost Entities
13 (including the RMail entity [that Khan, Tomkow and a strawman “salesman” own – to the
14 exclusion of the several hundred RIL/RComm investors] that now controls all of the
15 intellectual property after a series of inter-company transfers) including, without
16 limitation, valuable settlements between, for example, RMail and Amazon/PayPal (entered
17 into just a month before the Petition Filing Date) with the unaccounted for proceeds being
18 distributed to Khan’s offshore (Belize, Cayman Islands and/or Bermuda) accounts while
19 Debtor has feigned an inability or lack of recollection as to the consideration paid by
20 Amazon/PayPal when questioned at the 341A hearing; (2) concealed the other extensive
21 intellectual property lawsuits being litigated in the Eastern District of Texas, which legal
22 proceedings have substantial value to the estate and Khan’s shares in the corporations; and
23 (3) has provided patently evasive and non-responsive “answers” to asset and liability
24 inquiries by the U.S. Trustee and Creditors’ counsel and has failed to comply with the
25 Trustee’s requests (Ex. 5; Ex. 26, pp. 16, 16 & 21) for shareholder lists and capital
26 contributed, all banking information (accounts and statements) for all of the RPost entities
27 in the U.S. and abroad (of which there are nearly two dozen per RPost’s own website [Ex.
28 6, {Exs. 5 & 6 therein}) and copies of the settlement agreements with Amazon/PayPal and

1 Zix Corporation (and the records tracing the proceeds from these March/April 2013
2 settlements – none of which were disclosed on the Debtor's schedules, original or
3 amended. Exs.1, 2, 3 & 7.

4 **b) Despite the Trustee's Written And Oral Requests, Khan**
5 **Has Defiantly Refused To Produce Records And**
6 **Information Of His Assets Including the Corporate Assets**
7 **That He Controls, Thereby Misusing and Abusing The**
8 **Bankruptcy System.**

9 Khan's evasion and defiant refusal to provide the Trustee and Creditors with asset
10 information and supporting documentation is in and of itself an abuse of the Bankruptcy
11 process and sufficient 'cause' for conversion. At the 341A hearing on May 28, 2013 and
12 in the Trustee's subsequently filed objections, the Trustee requested (a) all bank statements
13 and all the financial records of the corporate entities; (b) complete lists with contact
14 information of the shareholders of the corporations – RIL, RComm and RMail, the capital
15 paid in by each shareholder and where that capital was deposited and when and where the
16 funds are now; and (c) the settlement agreements that were entered into in the 45 days
17 before the Petition was filed including, without limitation, settlements with Amazon,
18 PayPal and Zix Corporation and where those settlement funds were received and
19 distributed. Khan defied the Trustee, failing to produce the required information and
20 documentation.⁸ Khan's fast and loose repertoire with the facts and the obligation to
21 speak fully and truthfully is not limited to his Petition filing here. While hurriedly

22 ⁸ Instead, and in sharp contrast to a debtor who is compliant, what Khan did produce was
23 900 pages of largely uninformative tax returns and then a summary cover sheet with
24 redacted banking institutions used by each RPost entity (though not represented as
25 complete), **but no bank statements whatsoever and no accounting for the \$6M in**
26 **capital RIL raised from July 2009 through October 2010 or for the minimum \$5M in**
27 **capital RComm raised from March 2011 through July 2012 (or the millions raised**
28 **thereafter). Khan did not produce the RIL/RComm/RMail shareholder**
information and contacts, the capital contribution amounts, dates of the capital
contributions and in which bank's accounts for which entities the funds were
deposited. And, Khan refused to produce the settlement agreements entered into in
March and April 2013 with Amazon, PayPal and Zix corporation or account for the
proceeds of the settlements, the accounts the settlement funds were deposited in and
where the funds were distributed to therefrom.

1 attempting to settle out the IP lawsuits Khan was pursuing in the names of
2 RIL/RComm/RMail in the U.S. District Court in the Eastern District of Texas, Khan and
3 his counsel there concealed his bankruptcy and the Superior Court fraud determination
4 from the judge presiding over said IP litigation. The Federal Court there has since issued
5 a stay of proceedings (issued just 2 days before the trial was to begin), underscoring the
6 Court's rightful concern about the relationship between Debtor's fraud and bankruptcy and
7 the disposition of corporate assets. As safeguarding the interests of the estate and
8 creditors is the paramount consideration, Khan's abuse of the bankruptcy process and
9 deliberate non-compliance should not be countenanced.

10
11 **c) Khan Had At Least \$315,000 In Net Worth As Of The**
12 **Petition Date (Independent of The Value of His Shares In**
13 **The RPost Companies And The Corporate Assets He**
14 **Controls); The Petition Was Filed Solely To Interfere With**
15 **the Pre-Petition Superior Court Action.**

16 Without even disclosing or factoring in his shares in and the assets of the RPost
17 Companies he controls as an officer/director/shareholder (Khan being the signatory on all
18 the entities bank accounts), at the time of the Petition filing, Khan has admitted to the
19 Superior Court that his net worth was at least \$315,000.00. Ex. 16, p.10:15-18.
20 Moreover, even the initial \$100,000.00 awarded to Barton was not sufficient to put Khan's
21 net worth in the negative or justify the instant Petition filing, for one simple reason: Khan
22 represented to the Superior Court that RIL, not Khan, had set aside \$100,000 to pay that
23 portion of the Superior Court's award in the initial Statement of Decision. Ex. 11, p.
24 86:19-24; Ex. 13, p. 45:20-25. Further, Khan concedes that all of his credit card bills were
25 being paid by RIL/RComm (Ex.11, p. 6:11-23), rendering meritless on its face any
26 assertion that Khan faced credit card debt of any significance not being covered by the
27 corporations he controls.

28 Instead, what is crystal clear is that Khan's midnight Petition was filed the weekend
after the Superior Court (with acknowledgment by Khan's state court counsel) determined
that the matter was submitted for further decision effective April 12, 2013. Ex. 25. p.
102:6-7, 104:16-105:13. Here, Khan filed the Petition just following the close of

1 evidence in the Pre-Petition Superior Court Action on Sunday, April 14th, and while that
2 Court was ready to issue its monetary award after more than 1 year of trial activities (three
3 trial phases); Khan then quickly filed his purported Chapter 13 Plan (Ex. 4) before the
4 Superior Court issued its further Statement of Decision and suggested to this Court that his
5 liability in that action was merely \$100,000. After the stay was lifted, the Superior Court
6 issued its RSOD 3 months ago but Khan and his counsel have refused to withdraw the inapt
7 “plan” or convert this case, have presented no other plan (and cannot do so) and continue to
8 propagate the fraudulent schedules that conceal the corporate assets (and, hence, share
9 values), all to the prejudice of the creditors and the estate. Khan used the Petition filing to
10 attempt to suggest that his liability was only \$100,000 (putting aside that he represented
11 that RIL would pay that sum) and rushed to submit a Chapter 13 plan before the Superior
12 Court issued its RSOD establishing its findings regarding the value of common shares
13 which necessarily include the value of Khan’s 6M common shares in RIL. The Petition
14 was filed, therefore, as part of Khan’s plan to create a false impression before this Court
15 and the Trustee and his failure to withdraw same underscores the improper purpose of the
16 Petition filing and continued case prosecution by Khan.

17 Only a Chapter 7 conversion will rectify Khan’s charade and allow the appointment
18 of an independent Trustee to marshal the assets and provide for their orderly sale and
19 distribution to satisfy the creditors and the estate; in sharp contrast, Khan has demonstrated
20 a deliberate disregard for the authority of the Courts and an unchecked willingness to say
21 anything to any court and conceal the material information that a debtor acting in good
22 faith would have long ago disclosed in full and, at worst, disclosed when called out by the
23 Chapter 13 to do so.

24 **d) Khan’s “Plan” Is Not Confirmable And Is**
25 **Inequitable Given The Substantial Claims Against**
26 **Him/The Estate.**

27 Even assuming *arguendo* that Khan’s Chapter 13 ineligibility and other “cause”
28 does not somehow compel conversion and his bad faith in filing and prosecuting this
Chapter 13 case were not rampantly evident, Khan’s failure to account for, via submission

1 of an amended plan, Barton's liquidated fraud claim (or the claims of the other creditors)
2 and to present any payment plan concerning same is considered "bad faith" under Section
3 1307(c)(1). *In re Goeb* (1982) 675 F2d 1386 [Court can consider lack of repayment of
4 unsecured claims in 'bad faith' analysis]). The deliberately hurried plan – derived from
5 schedules which conceal and mislead regarding Khan's assets and which blatantly omits
6 any reference to the other pre-petition claims of RIL and other shareholders of the RPost
7 Companies and attempts to avoid the Barton Judgment – could not be confirmed from
8 either an undisclosed asset or misrepresented debt perspective. The instant plan was
9 presented in bad faith and is not confirmable and, therefore, conversion of the case to
10 Chapter 7 is warranted.

11 **5. Conversion to Chapter 7 Is Clearly In The Best Interests of**
12 **Khan's Creditors And The Estate.**

13 Under controlling law and applicable principles, conversion of Khan's Chapter 13
14 case to a Chapter 7 case is undoubtedly and undeniably in the best interest of all of the
15 creditors and the estate. Chapter 7 is the only equitable method by which – for the
16 administrative, procedural and substantive reasons articulated in *Henson* – all of Khan's
17 creditors have the best opportunity to receive the most amount of, if not all of, the sums due
18 from him. Khan has manipulated and concealed assets (despite opportunities to reverse
19 his duplicity), has secreted away the undisclosed assets (IP litigation settlements, for
20 example), defiantly refused to comply with the Trustee's documentary and information
21 requests at the 341A hearings and in its objections, filed the Chapter 13 case for an
22 improper purpose involving the Pre-Petition State Court Action, and has played and
23 continues to play fast and loose with the Courts.

24 Debtor's control over the RPost entities (and his common and preferred shares
25 therein) reflect an asset base that, upon Chapter 7 liquidation and assuming no waste or
26 other wrongful acts undertaken by or at the direction of Debtor concerning said assets, will
27 be sufficient to pay movant and all unsecured creditors that which they are owed in full and
28 cover the costs incurred by the trustee and his/her employed professionals. Conversion of
Debtor's Bankruptcy case to Chapter 7 with the Trustee thereupon assuming managerial

1 control (and employing such professionals in connection therewith) is in the best interests
2 of the creditors⁹ and, further, to prevent Debtor's continuing fraud upon this Court, the
3 creditors and the judicial system in other myriad jurisdictions.

4 **II. CONCLUSION.**

5 Khan does not qualify for Chapter 13 and, on that ground alone, conversion to
6 Chapter 7 is required and, given the substantial assets under Khan's control and in his
7 possession, is in the best interests of the creditors and the estate. In addition, conversion
8 of this case to a Chapter 7 case is supported by cause as Khan's petition and schedules have
9 concealed and misrepresented assets, Khan has subverted the Bankruptcy process, Khan
10 (with admitted net worth in excess of \$310,000 (without even accounting for his shares and
11 assets under control in the RPost entities)) filed the Petition to interfere with the
12 Pre-Petition State Court Action (so as to attempt to have a "plan confirmed" before the
13 Superior Court's final judgment damages award was issued), Khan has no confirmable
14 plan and the best interests of the creditors and estate are overwhelming protected vis-à-vis
15 a conversion to Chapter 7.

16 Debtor Khan's fraud before the Los Angeles Superior Court, the US District Court
17 in Texas and now this Court is irreconcilable with the maintenance of the Chapter 13 case
18 and the avoidance of a Chapter 7 conversion. Barton's Motion is well taken and should be
19 granted. A Chapter 7 trustee should be appointed forthwith and a restraining order
20 imposed on Debtor from taking any actions regarding his assets pending further order of
21 this Court.

22 Date: September 13, 2013

McGARRIGLE, KENNEY & ZAMPIELLO, APC

23 By: 

24 Patrick C. McGarrigle, Esq.

Michael J. Kenney, Esq.

25 Attorneys for Creditor/Adversary Plaintiff
Kenneth Barton

26
27 9 Upon conversion, Barton requests that the Court deem Barton's Adversary Complaint,
28 filed on July 26, 2013 (and Debtor's answer thereto), as filed in the converted Chapter 7
case (and that such administration also apply to the other adversary complaint filed in the
Khan bankruptcy).

DECLARATION OF PATRICK C. MCGARRIGLE

I, Patrick C. McGarrigle, declare:

1. I am an attorney, duly licensed to practice before this Court, and the principal McGarrigle, Kenney & Zampietro, APC, counsel for Creditor/Adversary Plaintiff Kenneth Barton ("**Barton**"). The following is based upon my personal knowledge and, if called upon, I could and would competently testify to the truth thereof.

2. Attached to the accompanying Compendium of Evidence as Exhibit "1" and incorporated fully herein by this reference is a true and correct copy of the Chapter 13 Bankruptcy Petition (the "**Petition**") filed by Debtor Zafar Khan ("**Khan**" or "**Debtor**") on April 14, 2013 with the United States Bankruptcy Court, Central District.

3. Attached to the accompanying Compendium of Evidence as Exhibit "2" and incorporated fully herein by this reference is a true and correct copy of Khan's Summary of Schedules, filed with this Court on April 29, 2013, regarding his Petition in this Bankruptcy case.

4. Attached to the accompanying Compendium of Evidence as Exhibit "3" and incorporated fully herein by this reference is a true and correct copy of Khan's Amended Schedules, filed with this Court on May 3, 2013, regarding his Petition in this Bankruptcy case.

5. Attached to the accompanying Compendium of Evidence as Exhibit "4" and incorporated fully herein by this reference is a true and correct copy of Khan's "Chapter 13 Plan," filed with this Court on April 29, 2013.

6. Attached to the accompanying Compendium of Evidence as Exhibit "5" and incorporated fully herein by this reference is a true and correct copy of the Chapter 13 Trustee's Objections to Khan's Chapter 13 Plan, filed with this Court on May 30, 2013.

7. Attached to the accompanying Compendium of Evidence as Exhibit "6" and incorporated fully herein by this reference is a true and correct copy of Barton's Objections to Khan's Chapter 13 Plan, filed with this Court in May 2013.

1 8. Attached to the accompanying Compendium of Evidence s Exhibit "7" and
2 incorporated fully herein by this reference is a true and correct copy of Khan's Amended
3 Schedules filed in this Bankruptcy Case on or about June 28, 2013.

4 9. Attached to the accompanying Compendium of Evidence as Exhibit "8" and
5 incorporated fully herein by this reference is a true and correct copy of the Bye-Laws of
6 Rpost International Limited ("RIL"), which RIL produced (through Khan) to my office in
7 approximately January 2006.

8 10. Attached to the accompanying Compendium of Evidence as Exhibit "9" and
9 incorporated fully herein by this reference is a true and correct copy of the common share
10 valuation report of Jaime d'Almeida of Duff & Phelps concerning the value of the common
11 shares of RIL as of June/July 2009, which report I moved into and which the Los Angeles
12 Superior Court admitted into evidence in the trial of Barton v. RPost International Limited;
13 Zafar Khan; Terrance Tomkow; et al., LASC Case No. YC061581 (the "**Pre-Petition**
14 **Superior Court Action**"). Duff & Phelps concluded, based on the then \$3.85 per
15 preferred share pricing of RIL shares sold in May/June 2009 and utilizing the back-solve
16 method, that RIL's enterprise value was \$100M and the common share value (per common
17 share) was \$2.42 per common share.

18 11. Attached to the accompanying Compendium of Evidence as Exhibit "10"
19 and incorporated fully herein by this reference is a true and correct copy of the Los Angeles
20 Superior Court's August 3, 2012 Statement of Decision (the "**LASC SOD**") in the
21 Pre-Petition Superior Court Action, following the first (liability) phase of the trial therein.

22 12. Attached to the accompanying Compendium of Evidence as Exhibit "11"
23 and incorporated fully herein by this reference is a true and correct copy of excerpts of the
24 November 20, 2012 transcript which was Day 1 of the punitive damages phase of the trial
25 in the Pre-Petition Superior Court Action.

26 13. Attached to the accompanying Compendium of Evidence as Exhibit "12"
27 and incorporated fully herein by this reference is a true and correct copy of excerpts of the
28

1 November 21, 2012 transcript which was Day 2 of the punitive damages phase of the trial
2 in the Pre-Petition Superior Court Action.

3 14. Attached to the accompanying Compendium of Evidence as Exhibit "13"
4 and incorporated fully herein by this reference is a true and correct copy of excerpts of the
5 November 26, 2013 transcript which was Day 3 of the punitive damages phase of the trial
6 in the Pre-Petition Superior Court Action.

7 15. Attached to the accompanying Compendium of Evidence as Exhibit "14"
8 and incorporated fully herein by this reference is a true and correct copy of the report of the
9 expert offered by RIL to the Los Angeles Superior Court and appointed thereupon by said
10 Court as an independent valuation expert, Dr. Paul Wazzan, dated March 8, 2013, which
11 report was submitted directly to the Court and all counsel (including myself) pursuant to
12 Court Order. Dr. Wazzan concluded, also based on the then \$3.85 per preferred share
13 pricing of RIL shares sold in May/June 2009 and utilizing the back-solve method (but
14 utilizing two different inputs than Duff & Phelps, that RIL's enterprise value was \$33M
15 and the common share value (per common share) was \$.64 per common share.

16 16. In the Pre-Petition Superior Court Action, the Superior Court issued its SOD
17 following the liability phase (which initially awarded Barton the return of his shares in RIL
18 which had been procured by RIL/Khan/Tomkow through forgery and fraud and thereafter
19 converted) and found that a punitive damages phase would proceed. After a period of
20 punitive damages discovery, the punitive damages phase of the trial proceeded on
21 November 20, 21 and 16, 2012. At the conclusion of that trial, on November 26, 2012, the
22 Court concluded that, because of the asset transfers by Khan and Tomkow from RIL to
23 both RMail and RComm, the return to Barton of his shares would not be equitable or just;
24 the Court then proceeded to reconsider and revisit the award of damages and the
25 determination of the value of RIL and its common shares as of a June 2009 conversion
26 date. Following further stipulated to meetings between the Court and the parties'
27 experts, the Court obtained proposed third party experts from which the Court to choose
28 and appoint as the Court's independent expert under the California Code of Civil

1 Procedure. The Court selected the independent expert preferred by Khan/Tomkow/RIL,
2 Dr. Paul Wazzan, who thereafter reviewed materials and reports from the parties' experts,
3 issued his own report and submitted to examination before the Court on April 4, 2013 and
4 provided a supplemental report as of April 12, 2013, at which point the parties – Barton and
5 RIL/Khan/Tomkow agreed that the case was then deemed submitted for decision (which
6 the Court advised all parties that it was prepared to promptly proceed to do).

7 17. Based on Khan's admissions in the Pre-Petition Superior Court Action,
8 Khan has 6,016,500 common shares in RIL but has also since indicated it is 6M shares.

9 18. Attached to the accompanying Compendium of Evidence as Exhibit "15"
10 and incorporated fully herein by this reference is a true and correct copy of the Los Angeles
11 Superior Court's Punitive Damages Award and Revisions to Statement of Decision, dated
12 June 18, 2013.

13 19. Attached to the accompanying Compendium of Evidence as Exhibit "16"
14 and incorporated fully herein by this reference is a true and correct copy of excerpts of
15 Khan's Motion to Reduce Punitive Damages filed on or about June 28, 2013 in the
16 Pre-Petition Superior Court Action, wherein Khan admits that his net worth is
17 \$310,000.00.

18 20. Attached to the accompanying Compendium of Evidence as Exhibit "17"
19 and incorporated fully herein by this reference is a true and correct copy of the "Judgment
20 After Court Trial" entered by the Court and filed on August 30, 2013 in the Pre-Petition
21 Superior Court Action.

22 21. Attached to the accompanying Compendium of Evidence as Exhibit "18"
23 and incorporated fully herein by this reference is a true and correct copy of RIL's Federal
24 court Complaint in the Eastern District of Texas entitled RPost International Limited v. Zix
25 Corporation, Case No. 2:11-cv-00064-TJW-CE, filed on January 31, 2011 (the "**Zix**
26 **Action**"). The Zix Action was one of several alleged patent infringement actions filed by
27 RIL/RMail/RComm against national and multi-national corporations conducting business
28 in the email and electronic banking/transaction verification spaces. Attached to the

1 Compendium of Evidence as Exhibits "19" and "20," respectively, are true and correct
2 copies of the Order of Dismissal of the Zix Action (entered on April 12, 2013) and the RIL
3 Press Release dated April 15, 2013 announcing the purportedly "confidential" settlement
4 of the Zix Action. As noted in the transcript of the May 26, 2013 341A examination of
5 Mr. Khan, he refused to provide any of the settlement terms of the RIL-Zix settlement.
6 And, despite the Trustee's request for production of the settlement agreement, Khan has
7 refused to produce same and has not produced same to Barton or to the Trustee.

8 22. Attached to the accompanying Compendium of Evidence as Exhibit "21"
9 and incorporated fully herein by this reference is a true and correct copy of RMail Federal
10 court Complaint in the Eastern District of Texas entitled RMail v. Amazon, Case No.
11 2:10-cv-00258-TJW, filed on July 21, 2010 (the "**Amazon Action**"). Attached to the
12 Compendium of Evidence as Exhibit "22" is a true and correct copy of the Order of
13 Dismissal of the Amazon Action (entered on March 13, 2013). Unlike the Zix Action
14 settlement, RMail did not announce in a press release that it had reached any settlement at
15 all of the Amazon Action (and its companion, consolidated PayPal Action). At his July 2,
16 2013 further 341A examination, Khan refused to provide any of the settlement terms of the
17 Amazon/PayPal settlement. And, despite the Trustee's request for production of the
18 settlement agreement, Khan has refused to produce same and has not produced same to
19 Barton or to the Trustee.

20 23. Attached to the accompanying Compendium of Evidence as Exhibit "23"
21 and incorporated fully herein by this reference is a true and correct copy of the Stay Order
22 of the United States District Court, entered August 2, 2013, in the RIL/RMail/RComm
23 action against Adobe Systems/EchoSign/Docusign (Eastern District Case No.
24 2:10-cv-00025-JRG [the "**Adobe Action**"], the remaining not-settled IP claims that exist
25 in the consolidated action of which Amazon and PayPal were a part. The Eastern District
26 Court issued the Stay Order, not because of any disclosure to the Court by
27 RIL/RMail/RComm or its principals, Khan & Tomkow but, because that Court there just
28 learned (from Adobe's counsel through contacts with counsel for other RIL/RComm

1 shareholders [who have filed adversary complaints in the Khan/Tomkow bankruptcies]
2 and the undersigned as counsel for Barton that Khan and Tomkow had been adjudged to
3 have committed forgery and fraud and had personal bankruptcies pending in the Central
4 District of California.

5 24. Attached to the accompanying Compendium of Evidence as Exhibit "24"
6 and incorporated fully herein by this reference is a true and correct copy of an RIL
7 shareholder meeting notice dated August 30, 2013, which RIL sent to certain shareholders
8 purporting to give notice of a shareholder meeting covering three years (2011-2013) and to
9 approve minutes from an alleged meeting from 2010, nearly four years ago. This Notice
10 is particularly alarming since (a) in sharp contrast, RIL's counsel represented to the
11 Superior Court on the very same date that RPost had "complied with all corporate
12 formalities" (Ex. 15, p. 29), and (b) Khan/Tomkow are attempting to white-wash corporate
13 records covering periods where Khan/Tomkow were engaged in fraudulent asset transfers
14 from RIL to RMail and to RComm.

15 25. Attached to the accompanying Compendium of Evidence as Exhibit "25"
16 and incorporated fully herein by this reference is a true and correct copy of excerpts of the
17 transcript of the April 4, 2013 valuation damages hearing before Judge Stuart M. Rice in
18 the Los Angeles Superior Court in the Pre-Petition State Court Action.

19 26. Attached to the accompanying Compendium of Evidence as Exhibit "26"
20 and incorporated fully herein by this reference is a true and correct copy of the transcript of
21 the May 28, 2013 341A hearing of Debtor Khan, conducted by the Trustee and at which I
22 was present and made inquiries of Khan.

23 27. Attached to the accompanying Compendium of Evidence as Exhibit "27"
24 and incorporated fully herein by this reference is a true and correct copy of the April 19,
25 2013 of the Superior Court's Minutes, stating that the Court was "prepared to rule" and
26 issue its award including punitive damages.

27 28. Attached to the accompanying Compendium of Evidence as Exhibit "28"
28 and incorporated fully herein by this reference is a true and correct copy of the July 26,

1 2013 email letter I received from counsel for Carolina Casualty Insurance, RIL's insurer,
2 confirming that RIL's Director's & Officer's (D&O) policy proceeds have been fully
3 exhausted. In other words, Khan and Tomkow, while failing to post a bond as security for
4 their obligation to RIL to cover defense and indemnity obligations (Ex. 7, Para. 77.3), have
5 caused the D&O policy to be exhausted. As such, RIL, exposed to a \$3.9M judgment in
6 favor of Barton, has claims against Khan and Tomkow for the defense fees and costs and
7 the judgment; yet, Khan and Tomkow did not schedule RIL as a creditor or the indemnity
8 rights as a claim of the corporation. Why? It is clear that Khan and Tomkow will not
9 acknowledge the patent conflict of interest of their continued status as the operational
10 officers/directors of RIL/RComm/RMail.


11 29. Attached to the accompanying Compendium of Evidence as Exhibit "29"
12 and incorporated fully herein by this reference is a true and correct copy of Debtor Khan's
13 Declaration in the RMail et al v. Amazon, PayPal litigation wherein he admits to having
14 "carved out" for RMail's benefit only the functionality (the "field of use") of the 219/334
15 Patents that verify electronic transactions. This sequestering of this valuable field of use
16 for their own benefit and to the exclusion of the shareholders of RIL and RComm,
17 notwithstanding that RIL's funds and guaranty were used to acquire the entire IP at issue, is
18 and was a patent breach of fiduciary duty and conflict of interest through self-dealing and
19 usurpation of RIL's corporate opportunities.

20 30. Khan and Tomkow formed RMail in the Fall 2008 and syphoned off nearly a
21 \$1M of RIL cash in the summer of 2009 and into 2010 to put the 219/334 Patents in the
22 control of Khan/Tomkow's insider company (RMail) and not RIL (which entity had signed
23 the NDA and was set up to be the patent acquisition entity until Khan/Tomkow switched
24 the name of the buyer in the contract, while keeping RIL as a guarantor of the entire
25 purchase price). See, Ex. 11 p. 27:5-15; 28:19-29:25; 30:15-23. Khan and Tomkow
26 plugged in the asset-less RMail as the buyer of the patents, swapping out RIL but still
27 having RIL guaranty the purchase, and then had RIL "loan" RMail \$754,000+ to acquire
28 the 219/334 Patents - \$554,000 being described as a "loan" to RMail (that never gets

1 repaid), \$200,000 as a "license" fee and then \$45,000 per year in license fees payable to
2 RMail. Conspicuously, Khan and Tomkow have never produced any shareholder meeting
3 and board of director meeting minutes whereby their insider, self-dealing transactions were
4 fully disclosed and approved in advance; given the Superior Court's SOD/RSOD, Khan
5 and Tomkow's corporate record forgery and destruction (coupled with the August 30, 2013
6 "notice" for a meeting to approve undisclosed corporate minutes from 4 years ago – Ex.
7 24[B]) underscores why there is no record of actual full disclosures and informed consent.
8 Consistently with their practice of concealment here, and although the 219/334 Patents
9 transaction allegedly was completed in August 2009, Khan and Tomkow did not allude to
10 the transactions until January 2011 (burying the reference to the transaction in a note
11 section of an alleged "audit" of RIL's assets (an "audit" used to spook those shareholders
12 contacted about yet another asset transfer transaction involving RIL's assets, this time to
13 RComm)).

14 I declare under the penalty of perjury under the laws of the State of California and
15 the United States of America that the foregoing is true and correct.

16 Executed this 13th day of September, 2013 at Chatsworth, California.

17 
18
19 Patrick C. McGarrigle

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

9600 Topanga Canyon Boulevard, Suite 200, Chatsworth, California 91311

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION OF CREDITOR - ADVERSARY PLAINTIFF KENNETH BARTON TO CONVERT DEBTOR ZAFAR KHAN'S CHAPTER 13 BANKRUPTCY CASE TO CHAPTER 7; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF PATRICK C. McGARRIGLE AND EXHIBITS THERETO** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 9/13/2013, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Trustee - Nancy K Curry (TR): ecfnc@trustee3.com

Attorney for Debtor - Lewis R. Landau: L.Landau@HorganRosen.com

Attorney for Thomas Burke/ 26736 Canada, Inc.: scott.e.shapiro.esq@gmail.com

United States Trustee (LA): ustregion16.la.ecf@usdoj.gov

Joely Khanh Linh Bui on behalf of Interested Party Courtesy NEF: wdk@wolffirm.com, joely.bui@wolffirm.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) 9/13/13, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Franchise Tax Board
Bankruptcy Section MS: A-340
P.O. Box 2952
Sacramento, CA 95812-2952

Los Angeles Division
255 East Temple Street
Los Angeles, CA 90012-3332

Barclays US Air
Card Services
PO Box 13337
Philadelphia, PA 19101-3337

Citibank Aadvantage
Processing Center
Des Moines, IA 50363-0001

(p)Portfolio Recovery Associates
LLC
PO BOX 41067
NORFOLK VA 23541-1067

Courtesy NEF
c/o The Wolf Firm
2955 Main Street
Second Floor
Irvine, CA 92614-2528
126736 Canada Inc., a Canadian
corporation
c/o Scott E. Shapiro, Esq.
APPELL SHAPIRO, LLP
15233 Ventura Blvd, Suite 420
Sherman Oaks, CA 91403-2220

CMRE Financial Svcs Inc
3075 E Imperial Hwy, Ste 200
Brea, CA 92821-6753

George Martin
c/o Scott E. Shapiro, Esq.
15233 Ventura Blvd, Suite 420
Sherman Oaks, CA 91403-2220

Suntrust Mortgage, Inc
Bankruptcy Department RVW 3034
PO Box 27767
Richmond VA 23261-7767

Employment Development Dept.
Bankruptcy Group MIC 92E
P.O. Box 826880
Sacramento, CA 94280-0001

American Express
Box 0001
Los Angeles, CA 90096-8000

Cerastes, LLC
C O Weinstein And Riley, Ps
2001 Western Avenue, Ste 400
Seattle, Wa 98121-3132

Henry Ben-Zvi
Ben-Zvi & Associates
3231 Ocean Park Boulevard, Suite
212
Santa Monica, California 90405-
3232

Suntrust Mortgage Inc.
PO Box 26149
Richmond, VA 23260-6149

Los Angeles City Clerk
P.O. Box 53200
Los Angeles, CA 90053-0200

(p) BANK OF AMERICA
PO BOX 982238
EL PASO TX 79998-2238

Chase United Mileage Plus
Card Services
PO Box 94014
Palatine, IL 60094-4014

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Thomas Burke
c/o Scott E. Shapiro, Esq.
APPELL SHAPIRO, LLP
15233 Ventura Blvd, Suite 420
Sherman Oaks, CA 91403-2220

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

United States Trustee (LA)
725 S Figueroa St., 26th Floor
Los Angeles, CA 90017-5413

Lewis R Landau
Horgan Rosen Beckham & Coren
LLP
23975 Park Sorrento Ste 200
Calabasas, CA 91302-4011

Nancy K Curry (TR)
700 S Flower Street, Suite 1215
Los Angeles, CA 90017-4114

Zafar David Khan
1929 Ruhland Ave, Unit A
Redondo Beach, CA 90278-2322

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 9/13/13, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Federal Express:

Hon. Vincent Zurzolo
U.S. Bankruptcy Court, Roybal Federal Building,
255 E. Temple Street, Suite 1360 / Courtroom 1368
Los Angeles, CA 90012-3332

Via Federal Express:

Hon. Julia W. Brand
U.S. Bankruptcy Court, Roybal Federal Building
255 E. Temple Street, Suite 1382 / Courtroom 1375
Los Angeles, CA 90012-3332

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 13, 2013 Vanessa Bravo

Date

Printed Name

/s/ Vanessa Bravo

Signature

EXHIBIT B

Nancy Curry, Chapter 13 Trustee
Omid Moezzi, Esq. (SBN 260145)
700 S. Flower St, Ste 1215
Los Angeles, CA 90017
Tel: (213) 689-3014
Fax: (213) 689-3055

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re:) Chapter 13
)
) Case No. 2:13-bk-19713-VZ
ZAFAR DAVID KHAN)
) **DECLARATION OF OMID MOEZZI,**
) **ATTORNEY FOR CHAPTER 13 TRUSTEE,**
) **IN SUPPORT OF CREDITOR'S MOTION TO**
Debtor) **CONVERT TO CHAPTER 7 [Docket No.**
) **41]**
)
) **HEARING DATE/TIME**
) **Date: October 7, 2013**
) **Time: 11:00 a.m.**
) **Courtroom: 1368**
) **255 E Temple Street**
) **Los Angeles, CA 90012**

DECLARATION OF OMID MOEZZI

I, OMID MOEZZI, do hereby declare and state as follows:

1. I am employed by the Trustee as a staff attorney and am duly qualified to make this declaration. As to the following facts, I know them to be true from my personal knowledge or I have gained knowledge of them from the Trustee's business records which were

1 maintained in the ordinary course of business made at or near the
2 time of the acts, conditions, or events to which they date.

3 2. Nancy Curry is the Chapter 13 Trustee (the "Trustee") with
4 respect to Chapter 13 Case No. 2:13-bk-19713-VZ of Zafar David Khan.

5 3. This voluntary chapter 13 case was filed on April 14, 2013
6 by debtor through his attorney, Lewis Landau.

7 4. The initial §341(a) Meeting of Creditors was scheduled and
8 held on May 28, 2013 at 9:00AM. At that time, the matter was
9 continued to July 2, 2013 due to documents including proof of income
10 that was not yet received by the Chapter 13 Trustee. Various
11 creditors were present at this meeting.

12 5. On May 30, 2013, the Chapter 13 Trustee filed an objection
13 to debtor's plan based on the examination conducted on May 28, 2013
14 (attached as Exhibit A and hereinafter incorporated by reference).

15 6. On July 2, 2013, at the continued §341(a) Meeting of
16 Creditors, the Chapter 13 Trustee again continued the meeting due to
17 proof of income documents that were provided to the Chapter 13
18 Trustee as a compact disc that could not be processed by the trustee.
19 Various creditors were again present at this meeting. The matter was
20 continued to August 8, 2013.

21 7. On August 8, 2013, at the time of the continued §341(a)
22 Meeting of Creditors the Chapter 13 Trustee again conducted her
23 examination. Various creditors were parent at this meeting.

24 8. Debtor's schedules disclose his ownership interest in
25 various corporations including RPost International, RPost
26 Communication, and RMail Limited (attached as Exhibit B and
27 hereinafter incorporated by reference).

1 9. Debtor provided to the trustee on or around August 2013,
2 tax returns for RPost US Inc., RPost Holdings Inc., Zansu Inc. and
3 his personal tax returns.

4 10. While debtor's schedules disclose secured debts totaling
5 \$583,000.00 and unsecured debts totaling \$144,558.00, the claim
6 register provides for a total secured claim amount of \$568,032.48 and
7 a total of \$67,621,223.91 (attached as Exhibit C and hereinafter
8 incorporated by reference). .

9 11. Debtor's total unsecured debts are not disclosed and render
10 the debtor ineligible under 11 U.S.C. §109(e).

11 12. Debtor's Statements of Financial Affairs questions number
12 19 - 24 fail to sufficiently respond regarding the businesses
13 inventory, interested current or former parties, withdrawals from the
14 business and other required information of an officer, director, or
15 managing executive (attached as Exhibit B and hereinafter
16 incorporated by reference).

17 13. Debtor's documents fail to provide sufficient information
18 to properly determine the present values of all the assets of the
19 various corporations to which debtor is an officer, insider, or
20 managing executive.

21 14. Debtor's documents fail to provide sufficient information
22 to properly determine the value of common and preferred shares of all
23 the various corporations to which debtor holds stock.

24 15. Debtor's documents fail to provide sufficient information
25 to properly determine any debts owed by the corporation that would be
26 attributable to the debtor.

27 16. Finally, the best interest of creditors would be served if
28 the case was converted to Chapter 7 thereby assigning a trustee to

1 properly liquidate the assets and provide distributions to
2 outstanding creditors.

3
4 I declare under penalty of perjury that the foregoing is true
5 and complete to the best of my knowledge. Executed at Los Angeles,
6 California on September 23, 2013.

7
8 Date: September 23, 2013

/s/ OMID MOEZZI

Omid Moezzi

Attorney for Nancy Curry

Chapter 13 Trustee

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

NANCY CURRY CHAPTER13 TRUSTEE
700 S. Flower St, Ste 1215
Los Angeles, CA 90017

The foregoing document described as **DECLARATION OF OMID MOEZZI, ATTORNEY FOR CHAPTER 13 TRUSTEE, IN SUPPORT OF CREDITOR'S MOTION TO CONVERT TO CHAPTER 7 [Docket No. 41]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 9/23/13, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Philip A Zampiello** McGarrigle Kenney & Zampiello philipz@mkzlaw.com
- **Scott E Shapiro, Esq** Law Offices of Scott E Shapiro PC
scott.e.shapiro.esq@gmail.com
- **Thomas Burke** c/o Appell Shapiro, LLP
scott@asattorney.com
- **Lewis R Landau** Horgan Rosen Beckham & Coren LLP LLandau@HorganRosen.com

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):
On 9/23/13, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.*

Debtor

Zafar David Khan

1929 Ruhland Ave, Unit A
Redondo Beach, CA 90278

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 9/23/13, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. *Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.*

Honorable Vincent P. Zurzolo
U.S. Bankruptcy Court
Bin outside of Suite 1360
255 E. Temple St
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

9/23/2013

Carlos Robles

/s/ Carlos Robles

Date

Type Name

Signature

EXHIBIT A

Nancy Curry, Chapter 13 Standing Trustee
700 South Flower Street, Suite 1215
Los Angeles, CA 90017
TEL: (213) 689-3014
FAX: (213) 689-3055

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION	
IN RE KHAN, ZAFAR DAVID	Case No. 2:13-bk-19713-VZ Chapter 13 TRUSTEE'S OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN UNDER 11 USC §§§1322, 1325 AND 1326; DECLARATION IN SUPPORT; NOTICE OF POSSIBLE DISMISSAL OR CONVERSION UNDER 11 USC §1307 Date: February 10, 2014 Time: 09:00 AM Ctrm: 1368 255 East Temple Street Los Angeles, CA 90012
Debtor	

The Chapter 13 Standing Trustee hereby objects to the confirmation of the proposed plan because the Debtor has failed to meet all necessary requirements as detailed in the attached declaration and supporting Exhibit A.

THE FAILURE OF THE DEBTOR, OR THE ATTORNEY REPRESENTING THE DEBTOR, TO RESPOND TO THESE OBJECTIONS, APPEAR AT THE CONFIRMATION HEARING AND FAILURE TO PRESENT EVIDENCE THAT ALL REQUIRED PAYMENTS ARE CURRENT MAY RESULT IN DISMISSAL OR CONVERSION OF THE CASE. THEREFORE, the Trustee respectfully requests that confirmation of the plan be denied and for such other relief as the Court may deem appropriate.

DATED: May 30, 2013

/s/ Nancy Curry
Chapter 13 Standing Trustee

DECLARATION OF MASAKO OKUDA

I, MASAKO OKUDA, declare as follows:

1. Nancy Curry is the Chapter 13 Standing Trustee in this matter KHAN, ZAFAR DAVID
, 2:13-bk-19713-VZ. I am employed by the Trustee as
a staff attorney and am duly qualified to make this declaration. The Trustee has files and
records kept by her office in the regular course of business. I have personally reviewed
the files and records kept by her office in the within case. The following facts are true and
correct within my own personal knowledge and I could and would testify competently
thereto if called upon to do so.
2. I object to confirmation of the proposed Plan because of the specific deficiencies which
are set forth in the attached Exhibit A which is incorporated herein by reference.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 30, 2013

/s/ Masako Okuda
Masako Okuda

Case Name: Khan, Zafar David

Case No. 2:13-bk-19713-VZ

EXHIBIT A

If the Debtor fails to produce the requested documents and fails to resolve the issues set forth in this objection to confirmation, the Trustee will recommend dismissal or conversion of the case for cause and unreasonable delay that is prejudicial to creditors. See 11 USC §§1307(c) and 1307(c)(1).

Other issues may arise at or before confirmation requiring additional action or information by the debtor and counsel.

The Debtor has a duty to cooperate with the Trustee. See 11 USC §521(a)(3) and FRBP 4002(4).

The Debtor has the burden of proof for plan confirmation. See *In re: Huerta* 137 BR 356, 365 (Bkrtcy. C.D.Cal., 1992), *In re: Wolff* 22 BR 510, 512 (9th Cir. BAP (Cal.) 1982), *In re Hill* 268 BR 548, 552 (9th Cir. BAP (Cal.), 2001).

Objection**Possible Resolution**

Failure to disclose		In re Rolland, 317 BR 402 (Bankr. C.D. Cal 2004)
The Debtor has failed to disclose [11 USC §521(a)(1)]		
1. Assets – Debtor has failed to list the number of shares he holds in various entities including the business valuation, debts, and assets. Debtor has also failed to disclose interest in other businesses both within and outside the U.S. Debtor to disclose all bank accounts, domestic and international, to which he has ability to withdraw, deposit, or has the ability to sign on behalf of a corporation.		Debtor must disclose all assets in his schedules.
Best effort		Hamilton v. Lanning, 130 S.Ct. 2464 (2010)
The Plan does not represent a best effort of the Debtor [11 USC §1325(b)(1)(B)] because		
1.	Not all scheduled expenses appear to be reasonable and/or necessary. Transportation \$1,040/mo; Home Maintenance \$921/mo; Clothing \$500/mo. <u>In re Smith</u> , 418 BR 359 (BAP 9 th Cir. 2009)	Debtor must commit all disposable income in to the plan.
Liquidation		
The Plan provides less for general unsecured creditors than they would receive in Chapter 7 [11 USC §1325(a)(4)].		
1. The Plan's own liquidation analysis reflects that general unsecured creditors must receive at least <u>100%</u> whereas the Plan provides 40 %		Debtor must provide for full payment of class 5 creditors due to unexempt equity in his home.
2. The schedules reflect that there is non-exempt equity which would result in a higher percentage payment to general unsecured creditors.		
Debtor's schedules disclose a value of \$751k where as an online appraisal values the real property at \$833k (see attached).		

Income		
<p>The Debtor has failed to timely (7 days before the §341(a) debtor examination) provide</p> <p>(1) Payment advices (documentation) to prove income received during the sixty days preceding the date of the petition [11 USC §521(a)(1), LBR 3015-1(c)(3)].</p> <p>(2) Complete copies of Federal and State Income Tax Returns, including W-2s, 1099s (or other supporting documentation) for the most recently ended calendar year [11 USC §521(e)(2), LBR 3015-1(c)(3)].</p>	<p>Debtor to provide business and personal tax returns for 2008 – 2012 including businesses outside the U.S. including business statements.</p>	
<p>The Debtor has failed to comply with the business reporting requirements of LBR 3015-1(c)(4) for all businesses, and holding companies, within and outside the U.S. for Rpost (and its various entities and corporations) and Zansu, Inc.</p>	<ul style="list-style-type: none"> • Actual monthly income and expense statements (not a profit and loss statement) for the six months preceding the date of the petition with supporting bank statements; and continue to provide these statements each month until a plan is confirmed; • Projected income and expenses for the 12 month period following the filing of the petition; • Evidence of appropriate business insurance and required licenses; • Complete Federal and State income tax returns for each of the five years preceding the filing of the petition; • Inventory of goods and list of business furniture and equipment as of the date the petition date. 	
Statement of Financial Affairs (SOFA) - Blank or incomplete items		
In re Rolland, 317 BR 402 (Bankr. C.D. Cal 2004)		
<p>The Debtor has failed to accurately and completely answer all items.</p>	<p>No. 18 - 21 regarding various businesses to which debtor is an executive, director or shareholder. Debtor must disclose all shareholders of various businesses, date shares were acquired, valuation documents, funds received and disposition of shareholder funds.</p>	
Debtor attorney fee		
<p>There are fee discrepancies among the Plan, RARA, SOFA, and the §341(a) testimony.</p>	<p>BR Form 2016(b)</p>	<p>\$9,281.00</p>
	<p>SOFA Item 9.</p>	<p>\$9,281.00</p>
	<p>RARA</p>	<p>\$0</p>

Miscellaneous

- Debtor to provide a credit report for himself and his spouse,
- Debtor to provide articles of incorporation for all business to which he is a interested member, director, or other executive with authority for all business within and outside the U.S.,
- Debtor to provide documentation of valuation of shares of preferred and common stock of all businesses to which there have been shares issued to investors/shareholders other than the debtor,
- Debtor has not disclosed business information including assets, debts, and specifics of debtors interest as a director, executive and shareholder,
- Debtor to provide information about business liabilities and evidence that he is not personally liable for any guarantees made by the business, debts incurred by the business, or agreements made by the business in the ordinary course, and
- Debtor to provide evidence FMV of real property listed on Schedule A.

5/29/13

Case 2:10-cv-00258-JRG Document 553 Filed 10/16/13 Page 66 of 139 PageID #: 13439 Desc

Main Document Page 6 of Page 12 of 40

Homes

Rentals

Mortgage Rates

Advice

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Mobile My Zillow

Location: City, State, or ZIP

California Redondo Beach 90278 1929 Ruhland Ave

Views: 80

1929 Ruhland Ave # A, Redondo Beach, CA 90278**Not for Sale**

Zestimate: \$833,153

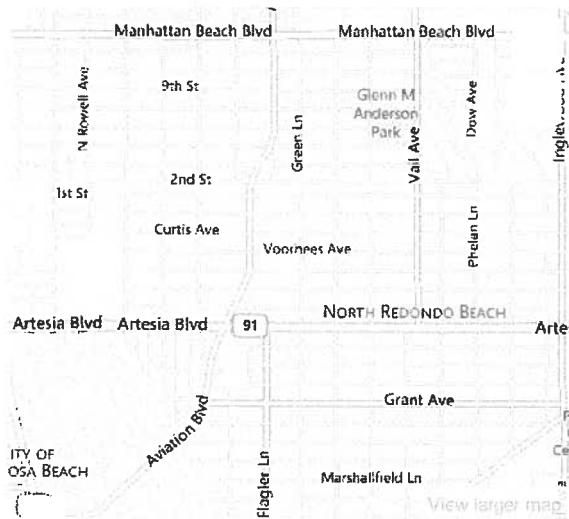
Rent Zestimate: \$3,724/mo

Est. Mortgage: \$3,124/mo

See current rates on Zillow

A Bad Credit Score is 598, See Yours for \$0

Bedrooms: 4 beds
Bathrooms: 4 baths
Condo: 2,423 sq ft
Lot: 6,750 sq ft
Year Built: 2000
Last Sold: Dec 2004 for \$810,000
Heating Type: Contact for details

Map**Bird's Eye****Street View**

Correct home facts Save this home Get updates Email more

Contact a local agent

- ☒ **Robert Dixon**
(7 reviews)
Call: (424) 257-1723
- ☐ **Alex Bannerman**
Write a review
Call: (310) 621-6309
- ☐ **Jessika Werchick**
(8 reviews)
Call: (310) 853-5851

Your Name

Phone

omoezzi@hotmail.com

I would like a professional estimate of my home at 1929 Ruhland Ave # A, Redondo Beach, CA 90278.

Contact Agent

Learn how to appear in this list

Description

This 2423 square foot condo home has 4 bedrooms and 4.0 bathrooms. It is located at 1929 Ruhland Ave Redondo Beach, California.

Cooling

Central

Parking

Unknown

Basement Type

Unknown

Fireplace

Unknown

Floor Covering

Unknown

Attic

Unknown

More | Visit county website

Zestimates

	Value	Range	30-day change	\$/sqft	Last updated
Zestimate	\$833,153	\$392K – \$1.3M	+\$6,687	\$343	05/28/2013
Rent Zestimate	\$3,724/mo	\$2.7K – \$5.4K/mo	-\$8	\$1.54	05/27/2013

Owner Estimate Post your own estimate

Market Guide Zillow predicts 90278 home values will rise 9.6% next year, compared to a 9.7% rise for Redondo Beach as a whole. Among 90278...
more



Get \$250 off closing costs

If you're ready to purchase a home, we're ready to help.

Get Prequalified

**Similar Homes for Sale**

2112 Harriman Ln # B...

For Sale: \$879,122

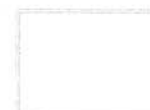
Beds: 4 Sqft: 2411
Baths: 3.0 Lot: 7492



2000 Mathews Ave UNI...

For Sale: \$432,126

Beds: 2 Sqft: 1238
Baths: 1.5 Lot: 11255



2109 Carnegie Ln APT...

For Sale: \$540,000

Beds: 3 Sqft: 1583
Baths: 1.5 Lot: 7405

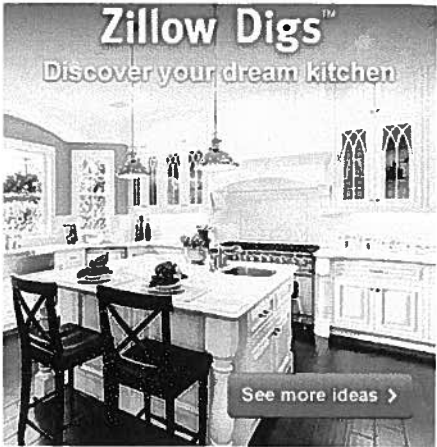
See listings near 1929 Ruhland Ave # A

Neighborhood

- ☒ Home Values
- ☐ Listings

View your 3 Bureau Credit Report

View larger map



Nearby Similar Sales

2021 Ruhland Ave # 2, Redondo Beach, C...

Sold on 3/6/2013: \$574,000

Beds: 4 Sqft: 2480
Baths: 3.0 Lot: 7494

2007 Curtis Ave # A, Redondo Beach, CA ...

Sold on 9/17/2012: \$425,000

Beds: 4 Sqft: 2530
Baths: 3.0 Lot: 7502

1930 Gates Ave # B, Redondo Beach, CA ...

Sold on 11/29/2012: \$798,000

Beds: 4 Sqft: 2412
Baths: 3.0 Lot: 7405

See sales similar to 1929 Ruhland Ave # A

Featured Partners

Quicken Loans® Home Loans
www.QuickenLoans.com
No need to go to a bank. Get your home mortgage online with us today!

Capital One Home Loans
www.capitalone.com/home-loans
Create mortgage envy with a home loan you can brag about. Learn more.

CHASE
www.chase.com
Chase Mortgage Cash Back can save you thousands

Nearby Schools in Redondo Beach

Data and ratings provided by GreatSchools.org

	Grades	Distance
Madison Elementary (assigned)	K-5	0.6 mi
Adams Middle (assigned)	6-8	1.1 mi
Redondo Beach Learning Academy (assigned)	9-12	1.8 mi
Birney Elementary	K-5	0.4 mi
Explorers In Learning Academy	6, 8, 12	0.4 mi
Lincoln Elementary	K-6	0.5 mi



Main Document Page 8 of Page 14 of 40
8-12 0.7 m

Contact a local agent



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PROOF OF SERVICE DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

700 South Flower Street, Suite 1215
Los Angeles, CA 90017

A true and correct copy of the foregoing document entitled (specify) **TRUSTEE'S OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN UNDER 11 USC §§§1322, 1325 AND 1326; DECLARATION IN SUPPORT; NOTICE OF POSSIBLE DISMISSAL OR CONVERSION UNDER 11 USC §1307** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On May 30, 2013, I checked the CM/ECF document for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

2. SERVED BY UNITED STATES MAIL:

On May 30, 2013, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

KHAN, ZAFAR DAVID

LEWIS R. LANDAU

1929 RUHLAND AVE., UNIT A
REDONDO BEACH, CA 90278

23564 CALABASAS RD., #104
CALABASAS, CA 91302-

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on May 30, 2013, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Vincent P. Zurzolo
U.S. Bankruptcy Court
Bin outside of Suite 1360
255 East Temple Street
Los Angeles, CA 90012

I declare under penalty of perjury that the laws of the United States that the foregoing is true and correct.

May 30, 2013
Date

Carlos Robles
Type Name

/s/ Carlos Robles
Signature

EXHIBIT B

B6 Summary (Official Form 6 - Summary) (12/07)**United States Bankruptcy Court**
Central District of CaliforniaIn re Zafar David Khan

Debtor

Case No. 2:13-bk-19713-VZChapter 13**SUMMARY OF SCHEDULES**

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

AMOUNTS SCHEDULED

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	YES	1	\$ 751,000.00		
B - Personal Property	YES	3	\$ 56,893.00		
C - Property Claimed as exempt	YES	1			
D - Creditors Holding Secured Claims	YES	1		\$ 583,000.00	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	YES	3		\$ 0.00	
F - Creditors Holding Unsecured Nonpriority Claims	YES	2		\$ 144,558.00	
G - Executory Contracts and Unexpired Leases	YES	1			
H - Codebtors	YES	1			
I - Current Income of Individual Debtor(s)	YES	1			\$ 9,260.00
J - Current Expenditures of Individual Debtors(s)	YES	1			\$ 8,360.00
TOTAL		15	\$ 807,893.00	\$ 727,558.00	

B6D (Official Form 6D) (12/07)

In re Zafar David Khan

Debtor

Case No. 2:13-bk-19713-VZ

(If known)

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim Without Deducting Value of Collateral" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion, if Any" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See Instructions Above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. 0238088652 Suntrust Mortgage Inc. PO Box 26149 Richmond, VA 23260		VALUE \$ 751,000.00				583,000.00	0.00
ACCOUNT NO.		VALUE \$					
ACCOUNT NO.		VALUE \$					
ACCOUNT NO.		VALUE \$					
Subtotal (Total of this page)						\$ 583,000.00	\$ 0.00
Total (Use only on last page)						\$ 583,000.00	\$ 0.00

0 continuation sheets attached

(Report also on
Summary of Schedules)

(If applicable, report
also on Statistical
Summary of Certain
Liabilities and Related
Data.)

B6E (Official Form 6E) (04/13)

In re Zafar David Khan

Debtor

Case No. 2:13-bk-19713-VZ

(if known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed.R.Bankr.P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)☐ **Domestic Support Obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$12,475* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

**Amount subject to adjustment on 4/01/16 and every three years thereafter with respect to cases commenced on or after the date of adjustment.*

B6E (Official Form 6E) (04/13) - Cont.

In re Zafar David Khan
Debtor

Case No. 2:13-bk-19713-VZ
(if known)

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$6,150* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,775* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).

☒ **Taxes and Certain Other Debts Owed to Governmental Units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to Maintain the Capital of an Insured Depository Institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507 (a)(9).

☐ **Claims for Death or Personal Injury While Debtor Was Intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on 4/01/16, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

1 continuation sheets attached

B6E (Official Form 6E) (04/13) - Cont.

In re Zafar David Khan

Debtor

Case No. 2:13-bk-19713-VZ

(If known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet) Sec. 507(a)(8)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	DEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. 029586018		Incurring: 2013 Consideration: Taxes		X		Notice Only	Notice Only	Notice Only
Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346								
ACCOUNT NO.								
ACCOUNT NO.								
ACCOUNT NO.								
Subtotal ➤						\$ 0.00	\$ 0.00	\$ 0.00
(Totals of this page)								
Total ➤						\$ 0.00		
(Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)								
Totals ➤						\$	\$ 0.00	\$ 0.00
(Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)								

Sheet no. 1 of 1 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6F (Official Form 6F) (12/07)

In re Zafar David Khan,

Debtor

Case No. 2:13-bk-19713-VZ

(If known)

SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Code debtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Code debtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 5466388417925224 Barclays US Air Card Services PO Box 13337 Philadelphia, PA 19101						42,656.00
ACCOUNT NO. 4388576026054630 Chase United Mileage Plus Card Services PO Box 94014 Palatine, IL 60094		Consideration: Credit Cards				1,075.00
ACCOUNT NO. 5082290049438408 Citibank Aadvantage Processing Center Des Moines, IA 50363						827.00
ACCOUNT NO. CMRE Financial Svcs In 3075 E Imperial Hwy, Ste 200 Brea, CA 92821						Notice Only
Subtotal						\$ 44,558.00
Total						\$

1 continuation sheets attached

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the Statistical
Summary of Certain Liabilities and Related Data.)

B6F (Official Form 6F) (12/07) - Cont.

In re Zafar David Khan,
DebtorCase No. 2:13-bk-19713-VZ
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. Henry Ben-Zvi Ben-Zvi & Associates 3231 Ocean Park Boulevard, Suite 212 Santa Monica, California 90405						Notice Only
ACCOUNT NO. YC061581 Kenneth Barton c/o Patrick C. McGarrigle Esq. McGarrigle, Kenney & Zampiello APC 9600 Topanga Canyon Blvd., Suite 200 Chatsworth, CA 91311	X	Incurred: Pending Consideration: LASC Complaint \$100,000 liquidated as of petition date. Remainder unliquidated; pending LASC proceedings.	X	X	X	100,000.00
ACCOUNT NO.						
ACCOUNT NO.						
ACCOUNT NO.						

Sheet no. 1 of 1 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims

Subtotal > \$ 100,000.00

Total > \$ 144,558.00

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

UNITED STATES BANKRUPTCY COURT
Central District of California

In Re Zafar David Khan

Case No. 2:13-bk-19713-VZ
(if known)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None
☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

	AMOUNT	SOURCE
2013(db)	33000.00	Rpost Us Inc.
2012(db)	132000.00	Rpost Us Inc.
2011(db)	132000.00	Rpost Us Inc.
2013(nfs)	4000	Zansu Inc.
2012(nfs)	10000	Zansu Inc.
2011(nfs)	0	

2. Income other than from employment or operation of business

None

☐

State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the two years immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
2013 (db) 0.00	
2012(db) 0.00	
2013(nfs) 0.00	
2012(nfs) 0.00	

3. Payments to creditors

None

☐

Complete a. or b., as appropriate, and c.

a. Individual or joint debtor(s) with primarily consumer debts: List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within 90 days immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
American Express	December, Jan, Feb	6000	
Bank Of America , CA	April 1	14716	

None

☐

b. Debtor whose debts are not primarily consumer debts: List each payment or other transfer to any creditor made within 90 days immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$6,225*. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

*Amount subject to adjustment on 4/01/16, and every three years thereafter with respect to cases commenced on or after date of adjustment.

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
American Express Box 0001 Los Angeles, CA 90096	12/12, 1/13, 1/14	6000	
Bank of America PO Box 982235 El Paso, TX 79998	4/1	14716	

None

☒

c. All debtors: List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

None

☐

a. List all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Case No. YC051312 And YC065259	Civil Business Torts	Torrance, Los Angeles Superior Court	Pending

- None ☒ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF
PERSON FOR WHOSE BENEFIT
PROPERTY WAS SEIZED

DATE OF
SEIZURE

DESCRIPTION AND
VALUE OF PROPERTY

5. Repossessions, foreclosures and returns

- None ☒ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS OF
CREDITOR OR SELLER

DATE OF REPOSESSION,
FORECLOSURE SALE,
TRANSFER OR RETURN

DESCRIPTION AND
VALUE OF PROPERTY

6. Assignments and Receiverships

- None ☒ a. Describe any assignment of property for the benefit of creditors made within 120 days immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS
OF ASSIGNEE

DATE OF ASSIGNMENT

TERMS OF
ASSIGNMENT
OR SETTLEMENT

- None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS
OF CUSTODIAN

NAME AND LOCATION
OF COURT CASE TITLE
& NUMBER

DATE OF
ORDER

DESCRIPTION AND
VALUE OF PROPERTY

7. Gifts

None



List all gifts or charitable contributions made within one year immediately preceding the commencement of this case, except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
--	--------------------------------	--------------	-------------------------------

8. Losses

None



List all losses from fire, theft, other casualty or gambling within one year immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES, AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
-----------------------------------	---	--------------

9. Payments related to debt counseling or bankruptcy

None



List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of a petition in bankruptcy within one year immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Lewis R. Landau Horgan, Rosen, Beckham & Coren, LLP 23975 Park Sorrento, Suite 200 Calabasas, CA 91302	4/14/2013	\$9,281

10. Other transfers

None



a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE,
RELATIONSHIP TO DEBTOR

DATE

DESCRIBE PROPERTY
TRANSFERRED AND
VALUE RECEIVED

b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

None



NAME OF TRUST OR OTHER DEVICE

DATE(S) OF
TRANSFER(S)

AMOUNT OF MONEY OR
DESCRIPTION AND
VALUE OF PROPERTY
OR DEBTOR'S INTEREST
IN PROPERTY

11. Closed financial accounts

None



List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS
OF INSTITUTION

TYPE OF ACCOUNT, LAST FOUR
DIGITS OF ACCOUNT NUMBER,
AND AMOUNT OF FINAL BALANCE

AMOUNT AND
DATE OF SALE
OR CLOSING

12. Safe deposit boxes

None



List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS OF BANK
OR OTHER DEPOSITORY

NAMES AND ADDRESSES OF
THOSE WITH ACCESS TO BOX
OR DEPOSITORY

DESCRIPTION OF
CONTENTS

DATE OF
TRANSFER OR
SURRENDER, IF ANY

13. Setoffs

None



List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR

DATE
OF
SETOFFAMOUNT
OF
SETOFF**14. Property held for another person**

None



List all property owned by another person that the debtor holds or controls.

NAME AND
ADDRESS OF OWNERDESCRIPTION AND
VALUE OF PROPERTY

LOCATION OF PROPERTY

15. Prior address of debtor

None



If the debtor has moved within the three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS

NAME USED

DATES OF OCCUPANCY

16. Spouses and Former Spouses

None



If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

Suzanne Khan

17. Environmental Sites

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None



a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME
AND ADDRESSNAME AND ADDRESS
OF GOVERNMENTAL UNITDATE OF
NOTICEENVIRONMENTAL
LAW

b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

None



SITE NAME
AND ADDRESS

NAME AND ADDRESS
OF GOVERNMENTAL UNIT

DATE OF
NOTICE

ENVIRONMENTAL
LAW

c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

None



NAME AND ADDRESS
OF GOVERNMENTAL UNIT

DOCKET NUMBER

STATUS OR DISPOSITION

18. Nature, location and name of business

None



a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Rpost International Limited		Pitts Bay Road Pembroke, Bermuda,	Tech	Ongoing

b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

None



NAME

ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, record and financial statements

- None ☐ a. List all bookkeepers and accountants who within the two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

Glazer Group
13747 Montfort Ste 350
Dallas, TX 75240

Last 2 years.

- None ☒ b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

- None ☐ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

See 19.

- None ☒ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the two years immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS

DATE
ISSUED

20. Inventories

- None ☒ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)
-------------------	----------------------	---

- None ☒ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS
-------------------	---

21. Current Partners, Officers, Directors and Shareholders

- None ☒ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST
------------------	--------------------	------------------------

- None ☒ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
------------------	-------	---

22. Former partners, officers, directors and shareholders

- None ☒ a. If the debtor is a partnership, list each member who withdrew from the partnership within one year immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL
------	---------	--------------------

- None ☒ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION
------------------	-------	---------------------

23. Withdrawals from a partnership or distribution by a corporation

None



If the debtor is a partnership or a corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during one year immediately preceding the commencement of this case.

NAME & ADDRESS OF
RECIPIENT, RELATIONSHIP
TO DEBTOR

DATE AND PURPOSE
OF WITHDRAWAL

AMOUNT OF MONEY OR
DESCRIPTION AND
VALUE OF PROPERTY

24. Tax Consolidation Group

None



If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds

None



If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PENSION FUND

TAXPAYER IDENTIFICATION NUMBER (EIN)

* * * * *

[If completed by an individual or individual and spouse]

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date

4/29/2013

Signature
of Debtor

/s/ Zafar David Khan

ZAFAR DAVID KHAN

0 continuation sheets attached***Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §152 and 3571*****DECLARATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)**

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110 setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section.

Printed or Typed Name and Title, if any, of Bankruptcy Petition Preparer

Social Security No. (Required by 11 U.S.C. § 110(c).)

If the bankruptcy petition preparer is not an individual, state the name, title (if any), address, and social security number of the officer, principal, responsible person, or partner who signs this document.

Address

X

Signature of Bankruptcy Petition Preparer

Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 18 U.S.C. §156.

EXHIBIT C

Central District Of California Claims Register

2:13-bk-19713-VZ Zafar David Khan

Judge: Vincent P. Zurzolo

Chapter: 13

Office: Los Angeles

Last Date to file claims: 08/26/2013

Trustee: Nancy K Curry (TR)

Last Date to file (Govt): 10/11/2013

Creditor: (33710498) Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346	Claim No: 1 <i>Original Filed</i> Date: 05/29/2013 <i>Original Entered</i> Date: 05/29/2013 <i>Last Amendment Filed:</i> 07/22/2013 <i>Last Amendment Entered:</i> 07/22/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Carolyn L Brown <i>Modified:</i>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 15%;">claimed:</td> <td style="width: 15%;">\$79084.00</td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> <tr> <td>Secured</td> <td>claimed:</td> <td>\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Priority</td> <td>claimed:</td> <td>\$0.00</td> <td></td> <td></td> <td></td> </tr> </table>			Amount	claimed:	\$79084.00				Secured	claimed:	\$0.00				Priority	claimed:	\$0.00			
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History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 5%;"></td> <td style="width: 10%;">1-1</td> <td style="width: 15%;">05/29/2013</td> <td style="width: 60%;">Claim #1 filed by Internal Revenue Service, Amount claimed: \$59178.20 (Brown, Carolyn)</td> </tr> <tr> <td>Details</td> <td></td> <td>1-2</td> <td>07/12/2013</td> <td>Amended Claim #1 filed by Internal Revenue Service, Amount claimed: \$78878.34 (Brown, Carolyn)</td> </tr> <tr> <td>Details</td> <td></td> <td>1-3</td> <td>07/22/2013</td> <td>Amended Claim #1 filed by Internal Revenue Service, Amount claimed: \$79084.00 (Brown, Carolyn)</td> </tr> </table>			Details		1-1	05/29/2013	Claim #1 filed by Internal Revenue Service, Amount claimed: \$59178.20 (Brown, Carolyn)	Details		1-2	07/12/2013	Amended Claim #1 filed by Internal Revenue Service, Amount claimed: \$78878.34 (Brown, Carolyn)	Details		1-3	07/22/2013	Amended Claim #1 filed by Internal Revenue Service, Amount claimed: \$79084.00 (Brown, Carolyn)			
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Details		1-3	07/22/2013	Amended Claim #1 filed by Internal Revenue Service, Amount claimed: \$79084.00 (Brown, Carolyn)																
Description:																				
Remarks:																				

Creditor: (34257865) SUNTRUST MORTGAGE, INC. BANKRUPTCY DEPARTMENT RVW 3034 PO BOX 27767 RICHMOND VA 23261	Claim No: 2 <i>Original Filed</i> Date: 08/13/2013 <i>Original Entered</i> Date: 08/13/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Tracie M Gregory <i>Modified:</i>												
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Amount	claimed:	\$568032.48												
Secured	claimed:	\$568032.48												
History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 5%;"></td> <td style="width: 10%;">2-1</td> <td style="width: 15%;">08/13/2013</td> <td style="width: 60%;">Claim #2 filed by SUNTRUST MORTGAGE, INC., Amount claimed: \$568032.48 (Gregory, Tracie)</td> </tr> </table>			Details		2-1	08/13/2013	Claim #2 filed by SUNTRUST MORTGAGE, INC., Amount claimed: \$568032.48 (Gregory, Tracie)							
Details		2-1	08/13/2013	Claim #2 filed by SUNTRUST MORTGAGE, INC., Amount claimed: \$568032.48 (Gregory, Tracie)										
Description: (2-1) KHAN.POC.8652														
Remarks: (2-1) ARREARAGE \$611.70														

Creditor: (34291393) Cerastes, Llc C O Weinstein And Riley, Ps 2001 Western Avenue, Ste 400 Seattle, Wa 98121	Claim No: 3 <i>Original Filed</i> Date: 08/21/2013 <i>Original Entered</i> Date: 08/21/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Josh Harrison <i>Modified:</i>
Amount claimed: \$41063.96		
History: Details 3-1 08/21/2013 Claim #3 filed by Cerastes, Llc, Amount claimed: \$41063.96 (Harrison, Josh)		
Description:		
Remarks:		

Creditor: (34294906) Portfolio Recovery Associates, LLC c/o Chase Bank Usa, N.a. POB 41067 Norfolk VA 23541	Claim No: 4 <i>Original Filed</i> Date: 08/22/2013 <i>Original Entered</i> Date: 08/22/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Christina Jewell <i>Modified:</i>
Amount claimed: \$1075.95		
History: Details 4-1 08/22/2013 Claim #4 filed by Portfolio Recovery Associates, LLC, Amount claimed: \$1075.95 (Jewell, Christina)		
Description:		
Remarks:		

Creditor: (33710499) Kenneth Barton c/o Patrick C. McGarigle Esq. McGarigle, Kenney & Zampielo APC 9600 Topanga Canyon Blvd., Suite 200 Ch	Claim No: 5 <i>Original Filed</i> Date: 08/23/2013 <i>Original Entered</i> Date: 08/23/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Philip A Zampielo <i>Modified:</i>
Amount claimed: \$7500000.00		
History: Details 5-1 08/23/2013 Claim #5 filed by Kenneth Barton, Amount claimed: \$7500000.00 (Zampielo, Philip)		
Description:		
Remarks:		

Creditor: (34303636) 126736 Canada Inc., a Canadian corporation c/o Scott E. Shapiro, Esq. APPELL SHAPIRO, LLP 15233 Ventura Blvd, Suite 420 Sherman Oaks, CA 91403	Claim No: 6 <i>Original Filed</i> Date: 08/23/2013 <i>Original Entered</i> Date: 08/23/2013	Status: <i>Filed by:</i> CR <i>Entered by:</i> Scott E Shapiro, Esq <i>Modified:</i>
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Amount	claimed:	\$20000000.00		Main Document	Page 39 of 40
History:					
Details		6-1	08/23/2013	Claim #6 filed by 126736 Canada Inc., a Canadian corporation, Amount claimed: \$20000000.00 (Shapiro, Scott)	
Description: (6-1) Shareholder Derivative Claim					
Remarks:					

Creditor: (34303665) George Martin c/o Scott E. Shapiro, Esq. APPELL SHAPIRO, LLP 15233 Ventura Blvd, Suite 420 Sherman Oaks, CA 91403		Claim No: 7 Original Filed Date: 08/23/2013 Original Entered Date: 08/23/2013	Status: Filed by: CR Entered by: Scott E Shapiro, Esq Modified:
Amount	claimed:	\$20000000.00	
History:			
Details		7-1	08/23/2013 Claim #7 filed by George Martin, Amount claimed: \$20000000.00 (Shapiro, Scott)
Description: (7-1) Shareholder Derivative Claim			
Remarks:			

Creditor: (34303845) Thomas Burke c/o Scott E. Shapiro, Esq. APPELL SHAPIRO, LLP 15233 Ventura Blvd, Suite 420 Sherman Oaks, CA 91403		Claim No: 8 Original Filed Date: 08/23/2013 Original Entered Date: 08/23/2013	Status: Filed by: CR Entered by: Scott E Shapiro, Esq Modified:
Amount	claimed:	\$20000000.00	
History:			
Details		8-1	08/23/2013 Claim #8 filed by Thomas Burke, Amount claimed: \$20000000.00 (Shapiro, Scott)
Description: (8-1) Shareholder Derivative Claim			
Remarks:			

Claims Register Summary

Case Name: Zafar David Khan
Case Number: 2:13-bk-19713-VZ
Chapter: 13
Date Filed: 04/14/2013
Total Number Of Claims: 8

Total Amount Claimed*	\$68189256.39
Total Amount Allowed*	

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured	\$568032.48	
Priority	\$0.00	
Administrative		

PACER Service Center			
Transaction Receipt			
09/23/2013 11:18:32			
PACER Login:	nc0048	Client Code:	
Description:	Claims Register	Search Criteria:	2:13-bk-19713-VZ Creditor Type: cr,adm,20,lm,ntcapr Filed or Entered From: 9/3/2000 Filed or Entered To: 12/31/2013
Billable Pages:	1	Cost:	0.10

EXHIBIT C

Patrick McGarrigle

From: Patrick McGarrigle
Sent: Thursday, September 12, 2013 8:29 AM
To: 'lewis@colvinhudnell.com'
Cc: Michael Kenney (MichaelK@mkzlaw.com)
Subject: Barton v. RPost, et al. (Our File No. 8681-006)
Attachments: 8-19-11 Letter Huff-Hudnell.pdf

Importance: High

Dear Mr. Hudnell:

Thank you for your email, though your deadline for an immediate telephone call could not reasonably be accommodated. As indicated below, I would be pleased to speak with you following our receipt of your substantive response and the requested information/documentation and an opportunity to review same. Moreover, there are related subjects that you are probably already aware of (and/or should be) and we bring them to your attention further below.

First, your email is unclear on myriad fronts and requires clarification and documentary support before a further response can be provided. For example:

- 1) What "RPost Plaintiffs" object to the notice of lien? You use the word "RPost" (which underscores our view that the "RPost" companies are one enterprise artificially divided in name only to facilitate the fraudulent conduct of your clients' principals, Messrs. Khan and Tomkow, et al.), but you do not identify which RPost you are referring to. Please explain and specify.
- 2) Are you representing (and can and will promptly document to us via disclosures this week) that RPost International Limited is not an interested party in any of the consolidated cases listed on the Notice of Lien (notwithstanding that the dockets indicate otherwise)? Your email refers to "this case," but, as you are aware, the cases are consolidated and include a number of cases.
- 3) If RPost International Limited is not a plaintiff/counter-claimant or is purportedly no longer a plaintiff/counter-claimant, please explain and state clearly what its current status is in the consolidated cases and when, if at all, its status changed from the original commencement of the actions listed.

Second, there is no "CD CAL" (presumably you mean US Federal Court, Central District) court that has issued any ruling that Barton has no right to seek recovery of his judgment sums from RMail or RComm. Where did you get that understanding from – please explain. While RMail and RComm have not yet been added as parties to Barton's \$4M judgment against Khan, Tomkow and RIL, Barton's rights to cause RMail and RComm to be obligated to so answer for RIL's debts have not been foreclosed at all. In fact, as you already know (and have known for at least 2 years given our prior correspondence to your firm – a copy of which is attached), as a creditor, Barton has a pending UFTA (Fraudulent Transfer) lawsuit pending against RMail, RComm and RIL in California which, among other things, challenges the dubious circumstances and transactions regarding ownership of the 219/334 patents and overall the "transactions" between RIL and RMail and RComm and the propriety of the wholesale asset transfers by RIL orchestrated by the adjudged corporate frauds, Khan and Tomkow. Perhaps the UFTA action is yet another proceeding that the RPost parties and their representatives have not disclosed to the Court in the Eastern District consolidated cases. Did you notify the Eastern District Court of the pendency of the UFTA action and that Khan and Tomkow had already been adjudged to have

committed fraud when you requested, among other things, the Court's dismissal – based on a purported settlement – of the Amazon/PayPal and Zix lawsuits?

Third, as you undoubtedly have been aware, Messrs. Khan and Tomkow filed Chapter 13 petitions in the USBC, Central, but have concealed the IP litigation in Texas and the Amazon/PayPal and Zix settlements (entered into in March and April 2013, respectively) from the Bankruptcy Court and Trustee (and creditors) there. The USBC is scheduled to hear motions to convert the Khan/Tomkow bankruptcies to Chapter 7 in October 2013. If granted, as you also know, the Chapter 7 Trustee, and not Khan/Tomkow (putting aside the myriad reasons why they have no authority to act now and/or in the past and/or previously acted in violation of their fiduciary duties and governing bye-laws and with extraordinary conflicts of interest), will have the right and ability to take control of the IP lawsuits (assets) as part of the liquidation of Khan/Tomkow's holdings, etc. In addition, you should also be aware, based on the adversary actions pending in the Khan/Tomkow bankruptcies, that Khan and Tomkow's authority to act on behalf of the RPost entities is and has been in, at the very least, in doubt if not prohibited (rendering their actions in the cases you are handling *ultra vires*) and there are myriad conflicts of interest stemming back several years that have been uncovered rendering their conduct in the IP litigations to be subject to potential unwinding.

Please provide me with the requested information and documentation above so that we may meaningfully respond to your email below. Upon receipt and an opportunity to review, I will gladly conduct a meet and confer telephone call with you should you nevertheless be intent upon filing any motion under these circumstances. We can set up a call for the next business day or two after you supply the requested information/documentation.

All of our client's rights and remedies are reserved.

Best regards,

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampello, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
818-998-3300 T
818-998-3344 F
thefirm@mkzlaw.com

From: Lewis Hudnell [<mailto:lewis@colvinhudnell.com>]

Sent: Tuesday, September 10, 2013 12:24 PM

To: Patrick McGarrigle

Cc: Winston Huff; djagai; Casey Goolsby

Subject: Fwd: Activity in Case 2:10-cv-00258-JRG Rmail Limited v. Amazon.Com, Inc., et al Notice (Other)

Dear Counsel,

RPost objects Mr. Barton's Notice because (1) Mr. Barton is not a party to this case and (2) none of the parties subject to the lien are parties to this case. Further, it is our understanding that the CDCAL has already determined that Mr. Barton does not have a right to seek collection from any of the RPost entities in this case. Accordingly, on behalf of the RPost plaintiffs in this case, we request that Mr. Barton immediately withdraw his Notice. Otherwise, under CV-7(h), we request a telephonic meet and confer tomorrow as RPost intends to file a motion to strike Mr. Barton's Notice and seek other appropriate remedies. Please let us know when you are available. Many thanks.

Lewis E. Hudnell, III
d: 347.855.4772
f: 347.772.3034
m: 917.861.3494
e: lewis@colvinhudnell.com

 **colvin hudnell**
IP SOLUTIONS
www.colvinhudnell.com

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McGARRIGLE, KENNEY & ZAMPIELLO, APC

9600 TOPANGA CANYON BLVD., SUITE 200
CHATSWORTH, CALIFORNIA 91311
TELEPHONE (818) 998-3300 FAX (818) 998-3344
E-MAIL: thefirm@mkzlaw.com

OUR FILE NUMBER:

8681-008

August 19, 2011

VIA E-MAIL AND U.S. MAIL

Winston O. Huff, Esq.
Navarro Huff, PLLC
302 N. Market Street, Suite 450
Dallas, Texas 75202

Lewis E. Hudnell, III, Esq.
Hudnell Law Group, P.C.
244 Fifth Avenue, Suite 240H
New York, New York 10001

Re: Kenneth Barton v. RPost International Limited; RMail Limited; RPost Communications. Ltd., et al.
LASC Case No.: YC 065259

Dear Counsel:

This Firm is counsel to Ken Barton.

As we understand that you represent RMail Limited ("RMail") in at least three patent infringement lawsuits and possibly several others (in which your firm appears to also represent RMail) and RPost Communications Limited, the putative assignee/successor-in-interest of RPost International Limited ("RPost")), we are writing to notify you concerning pending litigation relative to said patent(s). Please be advised that Mr. Barton has initiated a Fraudulent Conveyance lawsuit in the Los Angeles Superior Court, a copy of which is attached hereto, regarding RPost's fraudulent transfer of assets (including, without limitation, patents/patent rights (and claims based thereupon)) to Mr. Khan and Mr. Tomkow's insider - corporation, RMail. Mr. Khan and Mr. Tomkow, principals of both RMail and RPost, were served with the Summons and Complaint in the Fraudulent Conveyance action more than a week ago.

Please be advised that the patents/patent rights and the proceeds of the actions which you are prosecuting are the subject of the Fraudulent Conveyance lawsuit's claims. We will be proceeding in California to obtain provisional relief regarding the patent/patent rights and the subject lawsuits which you are prosecuting in the Eastern

Winston O. Huff, Esq.
Navarro Huff, PLLC

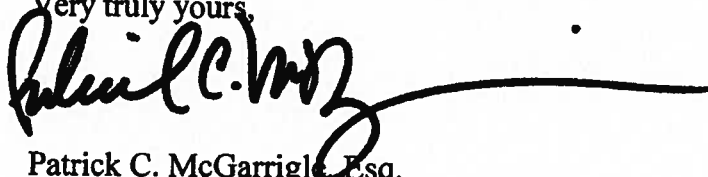
Lewis E. Hudnell, III, Esq.
Hudnell Law Group, P.C.

August 19, 2011
Page 2

District of Texas, etc. and the proceeds therefrom. Any distribution of proceeds and/or the assignment of patents/patent rights and claims to other persons and/or entities may well result in that person(s)/entities being added to this pending California litigation. The non-disclosure of the Fraudulent Conveyance proceeding to any such distributee of proceeds or assignee of the patents/patent rights and/or claims or rights thereunder may well exacerbate RPost, RMail and its responsible parties' liabilities.

Should you wish to discuss this matter, please do not hesitate to contact me. All of our client's rights and remedies are reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick C. McGarrigle", followed by a long horizontal line extending to the right.

Patrick C. McGarrigle, Esq.
MCGARRIGLE, KENNEY & ZAMPIELLO, APC

Enclosures

8681-008\ltr\Huff-Hudnell.001

cc: John Ratcliffe, Esq. – The Ashcroft Law Firm (Via Email – W/encl.)

07/28/11

TIME MACHINE NETWORK

FAX

8 of 18

CONFORMED COPYOF ORIGINAL FILED
Los Angeles Superior Court

JUL 28 2011

John A. Clark, Executive Officer/Clerk

By T. Rhodes, Deputy

1 PATRICK C. McGARRIGLE, ESQ., SBN 149008
 2 MICHAEL J. KENNEY, ESQ., SBN 192775
 3 McGARRIGLE, KENNEY & ZAMPIELLO APC
 9600 Topanga Canyon Boulevard, Suite 200
 Chatsworth, California 91311
 4 PH: (818) 998-3300 FAX: (818) 998-3344

5 Attorneys for Plaintiff
 6 Kenneth Barton

**CASE ASSIGNED FOR
 ALL PURPOSES TO**
 Judge William G. Wilentz
 Dept. Div.

BY FAX

SUPERIOR COURT OF STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - SOUTHWEST DISTRICT

KENNETH BARTON,

Plaintiff,

v.

15 RPOST INTERNATIONAL
 16 LIMITED; RMAIL LIMITED;
 17 RPOST COMMUNICATIONS, LTD.;
 and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: YC065259**COMPLAINT FOR:**

- (1) ACTION TO SET
 ASIDE/RECOVER FOR AN
 ACTUALLY FRAUDULENT
 TRANSFER (ACTUAL
 FRAUDULENT TRANSFER
 (Civil Code Section 3439.04(a)(1))
 AND RELATED RELIEF
- (2) ACTION TO SET
 ASIDE/RECOVER FOR A
 CONSTRUCTIVELY
 FRAUDULENT
 (CONSTRUCTIVELY
 FRAUDULENT TRANSFER)
 (Civil Code Section
 3439.04(a)(2)(A) and/or (B)
 3439.05) AND RELATED
 RELIEF

Plaintiff Kenneth Barton alleges as follows:

1. Plaintiff Kenneth Barton ("Plaintiff" or "Barton") is, and at all times relevant herein was, an individual over the age of eighteen and is a resident of Los Angeles County, California.

1

COMPLAINT

8681-008/pldg/Complaint-UFTA-001

1 2. Plaintiff is informed and believes, and on that basis alleges, that Defendant
2 RPost International Limited ("RPost") is, and at all times relevant herein was, a
3 Bermuda Corporation conducting business (and with its principal place of business) in
4 Los Angeles, County of Los Angeles, State of California, with its directors and the
5 majority of all officers residents of the State of California.

6 3. Plaintiff is informed and believes, and on that basis alleges, that Defendant
7 RMail Limited ("RMail") is, and at all times relevant herein was, a Bermuda
8 Corporation, conducting business (and with its principal place of business) in Los
9 Angeles, County of Los Angeles, State of California, and with the majority of its officers
10 and directors residents of the State of California, County of Los Angeles. Plaintiff is
11 informed and believes, and on that basis alleges, that Zafar Khan ("Khan") and Terrance
12 Tomkow ("Tomkow"), in addition to being the two largest common shareholders of
13 RPost and officers and directors of RPost, are also the largest (if not the sole)
14 shareholders of RMail and are both officers and directors of RMail. RMail is an initial
15 transferee of certain RPost assets as more fully described below.

16 4. Plaintiff is informed and believes, and on that basis alleges, that Defendant
17 RPost Communications Ltd. ("RComm") is, and at all times relevant herein was, a
18 Bermuda Corporation, conducting business (and with its principal place of business) in
19 Los Angeles, County of Los Angeles, State of California, and with the majority of its
20 officers and directors both residents of the State of California, County of Los Angeles.
21 Plaintiff is informed and believes, and on that basis alleges, that Zafar Khan and
22 Terrance Tomkow, in addition to being the two largest common shareholders of RPost
23 and are both officers and directors of RPost, as also the largest common shareholders of
24 RComm and are both officers and directors of RComm. RComm is an initial transferee
25 of certain RPost assets as more fully described below.

26 5. Plaintiff is ignorant of the true names and capacities of Defendant RPost
27 sued hereunder as Does 1 through 50, inclusive (the "Doe Defendants"), and, therefore,
28 Plaintiff hereby names each of them by said fictitious names. Plaintiff will seek leave to

1 amend this complaint to allege the Doe Defendants' true names and capacities when they
 2 are ascertained. Plaintiff is informed and believe, and on that basis alleges, that each
 3 Doe Defendant is responsible in some manner for the acts and liabilities alleged herein
 4 and that the damages sustained by Plaintiff were and continue to be the direct, proximate
 5 and foreseeable cause of the acts and/or omissions of the Doe Defendants, and each of
 6 them.

7 6. At all relevant times herein, Plaintiff was, and is, a creditor of Defendant
 8 RPost (as defined by Civil Code Section 3439.01(c)) as Plaintiff had, and continues to
 9 have, a claim (as defined by Civil Code Section 3439.01(b)) against Defendant RPost (as
 10 defined by Civil Code Section 3439.01(e)).

11 **FIRST CAUSE OF ACTION**

12 ***(Actual Fraudulent Transfer, Against Defendants RPost, RMail and RComm***
 13 ***and DOES 1 through 50, Inclusive)***

14 7. Plaintiff Barton refers to, realleges and incorporates by reference the
 15 allegations of Paragraphs 1 through 6 of this Complaint as though fully set forth herein.

16 8. At all relevant times from approximately 2001 through 2011, RPost was
 17 engaged in the business of, among other things, filing for and/or acquiring patents
 18 directly related to RPost's registered email products and services. RPost has heretofore
 19 filed and/or acquired at least seven (7) patents in the United States (and additional
 20 patents, based on RPost's public pronouncements, worldwide) inherent to its business
 21 products and services. RPost solicited and obtained millions of dollars in investor funds
 22 during said time period for the purposes of, among other things, filing for and/or
 23 acquiring ownership of patents inherent to and affecting RPost business products and
 24 services and future applications. In approximately July 2009, RPost (1) first disclosed
 25 that RPost and its directors had unwound the transactions whereby Barton had acquired
 26 6,016,500 common shares in RPost ("Barton's Shares") and had returned Barton's
 27 Shares to RPost's Treasury; and (2) knew that Barton had a claim for, among other
 28

1 things, damages for conversion arising from said conduct by RPost and its officers and
 2 directors, including, without limitation, Messrs. Khan and Tomkow and other directors
 3 of RPost. On or about January 29, 2010, Barton filed his lawsuit regarding said claim
 4 entitled Kenneth Barton v. RPost International Limited, Symantec Corporation, et al.
 5 LASC Case No. YC061581 ("Barton's Shares Lawsuit"), for damages arising out of
 6 the fraud, breaches of fiduciary duty and conversion by the named defendants therein,
 7 including RPost.

8 9. Plaintiff is informed and believes, and on that basis alleges, that RPost,
 9 acting without notice to and approval of all shareholders of RPost, transferred RPost's
 10 assets including, without limitation, intellectual property acquisition rights and/or
 11 corporate opportunities (including, without limitation, USPTO Patent Nos. 6,182,219
 12 and 6,571,334) and at least \$750,000.00 of RPost's cash to RMail (the "RPost-RMail
 13 Asset Transfers"). RPost, through its officers and directors (including, without
 14 limitation, Messrs. Khan and Tomkow), caused the \$750,000 of RPost cash (at a time
 15 when said sums represented approximately 95% of the entirety of RPost's total projected
 16 revenue for 2009) to be transferred to RMail (an entity formed by RPost's insiders -
 17 Khan and Tomkow) ostensibly to use RPost funds to acquire RPost intellectual property
 18 assets for the benefit of *RMail and its insiders (including Khan and Tomkow)* and to pay
 19 RMail \$200,000 a phantom "license fee" for the privilege of having RMail purportedly
 20 "license" back to RPost the very intellectual property assets (1) RPost represented to its
 21 shareholders *it* is and was in the business of filing for and/or acquiring (and had
 22 previously spent RPost resources defending against a patent infringement suit by Propat
 23 regarding one of the above-referenced patents), and (2) acquired using all or some
 24 portion of the \$750,000 in RPost cash fraudulently transferred to RMail. Khan and
 25 Tomkow used their positions at RPost to cause RPost (1) to transfer its \$750,000 in cash
 26 to Khan and Tomkow's new Bermuda entity, RMail, so that Khan and Tomkow could
 27 own and control (through RMail) valuable intellectual property assets (which should
 28 have been acquired in RPost's name using RPost's funds and which are precisely the

1 patents RPost (through Khan, Tomkow and others) had long represented to shareholders
 2 and prospective investors were the very types of patents RPost had acquired and would
 3 be acquiring) so as to purportedly insulate these assets from claims of Plaintiff (and other
 4 RPost shareholders and creditors), and (2) to permit RMail, through Khan and Tomkow,
 5 to take ownership of the valuable patents/intellectual property assets described above and
 6 to exploit those assets and the proceeds therefrom for the aggrandizement of RMail and
 7 the insiders, Khan and Tomkow, among others. RMail is, in fact, exploiting the
 8 transferred RPost assets in multiple lawsuits including, without limitation, RMail Limited
 9 v. Amazon.com, Inc., PayPal, Inc., et al., United States District Court, Eastern District -
 10 Texas, Case No. 2:10-CV-258; RPost International Limited. RPost Holdings, Inc., RMail
 11 Limited v. Trustifi, United States District Court, Central District - California, Case No.
 12 CV-10-01416-PSG, RMail Limited, et al. v. DocuSign, United States District Court,
 13 Eastern District - Texas, Case No. 2:11-CV-00299, RPost Holdings, Inc.; RPost
 14 Communications Ltd., RMail Limited v. Adobe Systems Incorporated; Echosign, et al.,
 15 United States District Court, Eastern District - Texas, Case No. 2:11-CV-00325. The
 16 above patent lawsuits and all other patent lawsuits filed by Defendants are hereinafter
 17 referred to as the "RPost-RMail-RComm Patent Lawsuits."

18 10. Plaintiff is informed and believes, and on that basis alleges, that RPost
 19 transferred other RPost assets to RComm (the "RPost-RComm Asset Transfers") in or
 20 about February-April 2011. RPost, acting without notice to and approval of all
 21 shareholders of RPost, transferred assets of RPost to RComm (another newly formed
 22 Bermuda corporation (also formed at the behest (and under the control) of Messrs. Khan
 23 and Tomkow, among others)).

24 11. RPost, acting by and through Messrs. Khan and Tomkow, among others,
 25 undertook and completed the RPost-RMail Asset Transfers with the actual intent to
 26 hinder, delay, or defraud Plaintiff.

27 ///

28 ///

1 12. RPost, acting by and through Messrs. Khan and Tomkow, undertook and
2 completed the RPost-RComm Asset Transfers with the actual intent to hinder, delay, or
3 defraud Plaintiff.

4 13. RMail received the RPost-RMail Asset Transfers from RPost with
5 actual knowledge of the fraudulent intent on RPost's part and with the intent to assist
6 RPost in such fraudulent purposes as alleged hereinabove, given that, among other
7 things, (1) RMail was formed by insiders of RPost (Khan and Tomkow), (2) Khan and
8 Tomkow controlled and managed RPost and its assets and control and manage RMail,
9 knew of the patents and the corporate opportunities for RPost described above, knew that
10 the \$750,000 in cash represented approximately 95% of RPost's revenue for 2009, and
11 knew of Barton's claims and RPost's wrongful conduct regarding Barton's Shares as
12 described above and among other duplicitous acts as referenced in the Barton Shares
13 Lawsuit, (3) Khan and Tomkow engineered the formation of RMail and the secret
14 transfer of RPost's assets to RMail, and (4) RPost, by and through Khan and Tomkow,
15 among others, concealed the concept and implementation of the RPost-RMail Asset
16 Transfers from RPost's shareholders and did not provide disclosure of all material facts
17 regarding same to RPost's shareholders and did not seek or obtain their approval to the
18 insider, patently conflicted and conflict of interest-ridden transfers (all of which conduct
19 was known to RMail by virtue of the actual knowledge of Khan and Tomkow), and
20 RMail, therefore, knew that the transfers were not approved by the RPost shareholders
21 and were intended to benefit RMail's insiders to the detriment of RPost and RPost's
22 creditors (such as Plaintiff) and in furtherance of the overall fraudulent purposes of said
23 transfers on the part of RPost and RMail and its insiders.

24 14. RComm received the other RPost assets from RPost with actual knowledge
25 of the fraudulent intent on RPost's part and with intent to assist RPost in such fraudulent
26 purposes as alleged hereinabove, given that, among other things, (1) RComm was
27 formed by insiders of RPost (Khan and Tomkow), (2) Khan and Tomkow controlled and
28 managed RPost and its assets and control and manage RComm, knew of RPost's assets,

1 and knew of Barton's claims and RPost's wrongful conduct regarding Barton's Shares as
2 described above and among other duplicitous acts as referenced in the Barton Shares
3 Lawsuit, (3) Khan and Tomkow engineered the formation of RComm and the secret
4 transfer of certain of RPost's assets to RComm, (4) RPost, by and through Khan and
5 Tomkow, among others, concealed the concept and implementation of the RPost-
6 RComm Asset Transfers from many of RPost's shareholders and did not provide
7 disclosure of all material facts regarding same to RPost's shareholders and did not seek
8 or obtain their approval to the insider, patently conflicted and conflict of interest-ridden
9 transfers (all of which conduct was known to RComm by virtue of the actual knowledge
10 of Khan and Tomkow), and RComm, therefore, knew that the transfers were not
11 approved by the RPost shareholders and were intended to benefit RComm's insiders
12 (including Khan and Tomkow) to the detriment of RPost and RPost's creditors (such as
13 Plaintiff) and in furtherance of the overall fraudulent purposes of said transfers on the
14 part of RPost and RComm and its insiders.

15 15. Further demonstrating the above transfers violate *Civil Code* §
16 3439.04(a)(1), (1) the RPost-RMail Asset Transfers and the RPost-RComm Asset
17 Transfers, respectively, were made to insider-controlled Bermuda corporations, RMail
18 and RComm; (2) RPost, through its near identical management with RMail and RComm,
19 retained possession of control of the assets transferred; (3) the RPost-RMail Asset
20 Transfers and the RPost-RComm Asset Transfers, and each of them, have been
21 concealed from RPost Shareholders; (4) RPost knew of the Barton claim before the
22 RPost-RMail Asset Transfers and the RPost-RComm Asset Transfers, respectively, were
23 made; (5) RPost concealed the asset transfers from RPost's shareholders; (6) RPost
24 failed to receive reasonably equivalent value in the RPost-RMail Asset Transfers and the
25 RPost-RComm Asset Transfers; and (7) if the representations of RPost's purported
26 auditor, Kabani & Company, Inc., were/are truthful and were representations made from
27 and based upon an audit conducted under generally accepted auditing principles,
28 standards and methodologies with appropriate verification of facts and document review

1 and retention undertaken by the auditor, RPost was allegedly insolvent at the time of, or
2 became insolvent shortly after, the RPost-RMail Asset Transfers and RPost-RComm
3 Asset Transfers were made.

4 16. As a direct, proximate, and foreseeable result of the actually fraudulent
5 RPost-RMail Asset Transfers and the RPost-RComm Asset Transfers, and each of them,
6 and the conduct of the Defendants, Plaintiff has suffered general and special damages,
7 including, but not limited to, damages from the loss of said property and/or from its use
8 by said Defendants, in a sum of at least \$30,000,000.00, according to proof, which
9 damages the Defendants should be adjudged to pay.

10 17. In addition to the afore-referenced damages, the Defendants, and each of
11 them, are obligated to pay pre-judgment interest on the above referenced sums at the
12 legal rate from the date of the wrongful acts of said Defendants through the date of entry
13 of judgment.

14 18. The conduct of RPost and RMail, and each of them, by and through and
15 ratified by Khan and Tomkow, as officers - directors of each entity and who were
16 authorized to act and make corporate decisions for RPost and RMail) was and is
17 malicious, oppressive and fraudulent. Barton requests that punitive and exemplary
18 damages be awarded against each of said Defendants in an amount according to proof.

19 19. The conduct of RPost and RComm, and each of them, by and through and
20 ratified by Khan and Tomkow, as officers - directors of each entity and who were
21 authorized to act and make corporate decisions for RPost and RComm) was and is
22 malicious, oppressive and fraudulent. Barton requests that punitive and exemplary
23 damages be awarded against each of said Defendants in an amount according to proof.

24 20. In addition to the relief set forth above, Defendants' conduct justifies,
25 without limitation, the appointment of a receiver to manage and operate RPost, RMail
26 and RComm to safeguard the above-referenced assets and to ensure that all proceeds
27 therefrom (including, without limitation, all proceeds from any royalties, license fees
28 and/or from the RPost-RMail-RComm Patent Lawsuits) are secured (and held in trust)

1 for attachment by Plaintiff upon order of the Court (and payment to Plaintiff upon the
 2 order of the Court and/or upon the settlement of Plaintiff's claims in the Barton Shares
 3 Lawsuit), the issuance of a pre-judgment attachment, temporary restraining order and/or
 4 injunction and the imposition of a constructive trust (including, without limitation, that
 5 the Court restrain Defendants from further transferring, pledging, encumbering and or
 6 voluntarily or involuntarily permitting any lien upon any and/or all of the transferred
 7 assets (and/or voiding any and all such transfers, pledges, encumbrances and liens), that
 8 the Court order that all proceeds therefrom and/or from any transactions regarding the
 9 above assets and asset transfers and any and all proceeds (via settlement or judgment)
 10 obtained in the RPost-RMail-RComm Patent Lawsuits be held in trust, interplead to the
 11 Court and/or paid to and held by a receiver pending further order of this Court.

12 13 **SECOND CAUSE OF ACTION**

14 ***(Constructively Fraudulent Transfer, Against Defendants RPost, RMail and RComm***
 15 ***and DOES 1 through 50, Inclusive)***

16 21. Plaintiff refers to, realleges and incorporates by reference the allegations of
 17 Paragraphs 1 through 10, 13-20 of this Complaint as though fully set forth herein.

18 22. RPost did not receive reasonably equivalent value in exchange for
 19 the asset transfers as alleged hereinabove.

20 23. If the representations of RPost's purported auditor, Kabani & Company,
 21 Inc., were/are truthful and were representations made from and based upon an audit
 22 conducted under generally accepted auditing principles, standards and methodologies
 23 with appropriate verification of facts and document review and retention undertaken by
 24 the auditor, RPost was allegedly insolvent at the time the above-referenced asset
 25 transfers were made, or became insolvent as a result of the above-referenced transfers,
 26 and (ii) the Plaintiff's creditor status existed at the time of the above-referenced
 27 transfers.

28 ///

24. At the time of the above-referenced asset transfers, RMail and RComm, as the transferees and given Khan and Tomkow's positions as officers/directors of RPost, RMail and RComm, knew that RPost was the subject of Barton's claims and had reason to believe, if the representations of RPost's purported auditor, Kabani & Company, Inc., were/are truthful and were representations made from and based upon an audit conducted under generally accepted auditing principles, standards and methodologies with appropriate verification of facts and document review and retention undertaken by the auditor, that RPost was insolvent and/or would become insolvent if the transfers, or any of them, occurred.

25. Underscoring that the above-referenced asset transfers were not for reasonable equivalent value, the transfers were not approved by RPost shareholders, the transfers were not disclosed to prospective RPost investors and were not disclosed to RPost shareholders for more than one year (and, then, only after the fact and only partially and/or vaguely and without providing, for example, the underlying RPost-RMail transaction documents and/or the evidence of the transactions by which RMail, using RPost's funds, acquired the above-referenced patents), the RMail patent acquisitions were completed using RPost funds (with RPost/RMail's insiders - Khan and Tomkow - and RMail itself not contributing any new money but using RPost cash to finance the patent acquisitions), all acts of unusual secrecy establishing that Debtor did not receive reasonably equivalent value in the transfer.

WHEREFORE, Plaintiff prays for judgment on the Complaint against the Defendants as follows:

ON THE FIRST AND SECOND CAUSE OF ACTION:

1. Avoidance and/or voiding of the above-referenced asset transfers (and all transactions related thereto and/or hereafter entered into) to the extent necessary to satisfy Plaintiff's claims;
2. Disregard the above-referenced asset transfers and directly attach or levy execution on the property transferred, all proceeds therefrom and the

- 1 Rpost-RMail-RComm Patent Lawsuits and all proceeds therefrom;
- 2 3. General damages in the sum of at least \$30,000,000.00, plus special
- 3 damages and other remedies as specified in the Complaint and otherwise
- 4 available under law;
- 5 4. A declaration that the RPost-RMail Asset Transfers are null and void;
- 6 5. A declaration that the RPost-RComm Asset Transfers are null and void;
- 7 6. An injunction and/or temporary restraining order against further
- 8 disposition by the Defendants of the assets transferred and their proceeds,
- 9 as referenced hereinabove and as otherwise requested by Plaintiff in this
- 10 action;
- 11 7. The appointment of a receiver to take charge of and safeguard the assets
- 12 transferred and/or their proceeds and the Rpost-RMail-RComm Patent
- 13 Lawsuits and all proceeds therefrom;
- 14 8. The imposition of a constructive trust over all of the RPost-RMail Asset
- 15 Transfers and all proceeds therefrom;
- 16 9. The imposition of a constructive trust over all of the RPost-RComm Asset
- 17 Transfers and all proceeds therefrom;
- 18 10. Exemplary and punitive damages, according to proof, as to the First Cause
- 19 of Action only;
- 20 11. Costs and attorneys' fees as allowable by law (including, without
- 21 limitation, the private attorney general statute) and/or contract; and
- 22 12. For such other and further relief as the Court deems just and proper and is
- 23 available under law.
- 24 13. Plaintiff demands a jury trial on those claims permitted under law.

25 Dated: July 28, 2011

MCGARRIGLE, KENNEY & ZAMPIELLO, APC

26 By: 

27 Patrick C. McGarrigle, Esq.
Attorneys for Plaintiff
28 Kenneth Barton

EXHIBIT D

Patrick McGarrigle

From: Patrick McGarrigle
Sent: Tuesday, September 17, 2013 1:02 PM
To: 'Lewis Hudnell'
Cc: Michael Kenney; Winston Huff
Subject: RE: Barton v. RPost, et al. (Our File No. 8681-006)

Importance: High

Mr. Hudnell:

Thank you for your note.

1. Are you unequivocally representing that RIL (a) was not a Plaintiff in any of the cases where RPost Communications is now a Plaintiff, and (b) if RIL was a Plaintiff and purportedly assigned its rights to RPost Communications, please provide copies of that evidence and terms of that alleged assignment(s) (beyond any generic notice of assignment/substitution of party, if any, filed in any of the cases).
2. As for Para. No. 2, my question was/is whether RIL has an interest in the subject litigation (any lien rights of any sort or any rights to proceeds therefrom, notwithstanding your statement that RIL is not a named party therein (to the 299, 300 and 325 cases). Please provide an unequivocal answer and the source documentation re: any rights of interest therein or lien retained by RIL.
3. With respect to the Zix action, please provide a copy of that settlement agreement to demonstrate that there is no additional consideration due RIL under that action and no continuing jurisdiction of the Court, etc. over the parties.
4. The State Court in California only denied (and denied "without prejudice" which your note does not reference) adding RMail and RComm to the RIL/Khan/Tomkow judgment via a motion to amend based on, among other things, representations made by those parties' counsel. Those representations are at odds with newly discovered evidence will be addressed with the Superior Court.

Please provide the requested information and documentation. We are not encouraging you to file any motion and find no good cause therefor. If you can provide the requested information/documentation by this time tomorrow, I will promptly review same and advise on Thursday (and assuming there are no issues with that which has been provided) whether the notice will or will not be withdrawn.

I look forward to your cooperation.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampiello, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
818-998-3300 T
818-998-3344 F
thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Tuesday, September 17, 2013 8:07 AM
To: Lewis Hudnell
Cc: Patrick McGarrigle; Michael Kenney; Winston Huff; djagai; Casey Goolsby
Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

We still have not heard back from you regarding our request for a meet and confer. Please let us know your availability for a call today. Otherwise, we will assume that you will not withdraw your notice and we plan to file our motion today indicating that you could not be reached to meet and confer.

Lewis

On Friday, September 13, 2013, Lewis Hudnell wrote:

Dear Patrick,

On the first point,

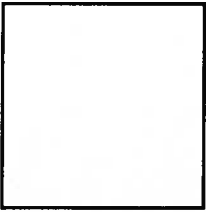
1. All of the plaintiffs object to the notice of lien. The remaining plaintiffs are RPost Holdings, RPost Communications, and RMail. I use RPost as shorthand to refer to the plaintiffs collectively. I fail to see how that underscores anything.
2. Only three of the consolidated cases are pending: 2:11-cv-299, 2:11-cv-300, 2:11-cv-325. RPost International is not a party to these cases. All of the cases involving RPost International have been dismissed. You can confirm this by looking at the docket.
3. RPost International was only a plaintiff in 2:11-cv-6, 2:11-cv-16, and 2:11-cv-64. All of these cases have been dismissed. Again, you can confirm this by looking at the docket.

On the second point, please see 60:23-61:10 of the August 30, 2013 hearing transcript in YC61581 where Judge Rice states that Mr. Barton has no right to collect from RPost Communications and RMail.

The third point is irrelevant to our request.

If based on these representations you will not withdraw the notice of lien, then we again request your availability to meet and confer in advance of our filing a motion to remove the notice of lien. Many thanks.

Lewis E. Hudnell, III
d: [347.855.4772](tel:347.855.4772)
f: [347.772.3034](tel:347.772.3034)
m: [917.861.3494](tel:917.861.3494)
e: lewis@colvinhudnell.com



www.colvinhudnell.com

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On Thu, Sep 12, 2013 at 11:29 AM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Dear Mr. Hudnell:

Thank you for your email, though your deadline for an immediate telephone call could not reasonably be accommodated. As indicated below, I would be pleased to speak with you following our receipt of your substantive response and the requested information/documentation and an opportunity to review same. Moreover, there are related subjects that you are probably already aware of (and/or should be) and we bring them to your attention further below.

First, your email is unclear on myriad fronts and requires clarification and documentary support before a further response can be provided. For example:

- 1) What "RPost Plaintiffs" object to the notice of lien? You use the word "RPost" (which underscores our view that the "RPost" companies are one enterprise artificially divided in name only to facilitate the fraudulent conduct of your clients' principals, Messrs. Khan and Tomkow, et al.), but you do not identify which RPost you are referring to. Please explain and specify.
- 2) Are you representing (and can and will promptly document to us via disclosures this week) that RPost International Limited is not an interested party in any of the consolidated cases listed on the Notice of Lien (notwithstanding that the dockets indicate otherwise)? Your email refers to "this case," but, as you are aware, the cases are consolidated and include a number of cases.

3) If RPost International Limited is not a plaintiff/counter-claimant or is purportedly no longer a plaintiff/counter-claimant, please explain and state clearly what its current status is in the consolidated cases and when, if at all, its status changed from the original commencement of the actions listed.

Second, there is no "CD CAL" (presumably you mean US Federal Court, Central District) court that has issued any ruling that Barton has no right to seek recovery of his judgment sums from RMail or RComm. Where did you get that understanding from – please explain. While RMail and RComm have not yet been added as parties to Barton's \$4M judgment against Khan, Tomkow and RIL, Barton's rights to cause RMail and RComm to be obligated t

EXHIBIT E

Patrick McGarrigle

From: Patrick McGarrigle
Sent: Tuesday, September 17, 2013 2:19 PM
To: lewis@colvinhudnell.com
Cc: Michael Kenney (MichaelK@mkzlaw.com)
Subject: Barton v. RPost, et al. (Our File No. 8681-006)

Mr. Hudnell:

I was hoping that we would have a substantive discussion once you provided the evidence we have requested. Instead, your note suggests an interest in form over substance, which is unfortunate.

As you know, one of the ways to have a meaningful meet and confer is if information/documentation germane to the issues are first shared so that the subsequent discussion is not a game but productive. Asserting that you'll only "answer these questions by phone" is tantamount to suggesting that you're not willing to stand by what you put in writing, so that we end up with a dispute over what was allegedly said or not said in a conference call. Given the fraudulent history of the Khan/Tomkow/RPost parties' in and out of a variety of judicial proceedings, requiring advance support for your representations and clarity regarding your representations (so that we can consider them promptly) is part and parcel of a meaningful meet and confer occurring. Your note does not provide any reason for your simply not already providing what we requested so we can get the core questions.

Regrettably, it appears that you are seemingly intent upon checking the telephonic meet and confer box while not providing basic, meaningful information and documentation to allow the meet and confer to be productive. I will gladly discuss this matter with you and do so without suggesting that your unwillingness to supply the information/documentation in writing is appropriate or a discharge of your meet and confer obligations or is our client waiving any rights in connection therewith. It may well be that your providing that information/documentation will obviate the need for a motion and/or demonstrate that no basis for requesting the withdrawal of the notice of lien exists; not providing same and then complaining about the lien is counter-intuitive to the filing of a good faith motion, much less conducting a productive meet and confer.

In any case, and without prejudice, you are free to call me at 2:45 p.m. PST today.

Patrick C. McGarrigle, Esq.
McGarrigle, Kenney & Zampello, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
818-998-3300 T
818-998-3344 F
thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Tuesday, September 17, 2013 1:41 PM
To: Patrick McGarrigle
Cc: Michael Kenney; Winston Huff; djagai
Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

The purpose of the EDTX meet and confer requirement is to discuss substantive issues like the ones you raise by phone, not email. It should not take a week to schedule such a conference. I would be happy to answer these questions by phone. Please let us know your availability for a call today. Otherwise, like I said, we intend to file our motion. Many thanks.

Lewis E. Hudnell, III
d: [347.855.4772](tel:347.855.4772)
f: [347.772.3034](tel:347.772.3034)
m: [917.861.3494](tel:917.861.3494)
e: lewis@colvinhudnell.com

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On Tue, Sep 17, 2013 at 4:01 PM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Mr. Hudnell:

Thank you for your note.

1. Are you unequivocally representing that RIL (a) was not a Plaintiff in any of the cases where RPost Communications is now a Plaintiff, and (b) if RIL was a Plaintiff and purportedly assigned its rights to RPost Communications, please provide copies of that evidence and terms of that alleged assignment(s) (beyond any generic notice of assignment/substitution of party, if any, filed in any of the cases).
2. As for Para. No. 2, my question was/is whether RIL has an interest in the subject litigation (any lien rights of any sort or any rights to proceeds therefrom, notwithstanding your statement that RIL is not a named party therein (to the 299, 300 and 325 cases). Please provide an unequivocal answer and the source documentation re: any rights of interest therein or lien retained by RIL.
3. With respect to the Zix action, please provide a copy of that settlement agreement to demonstrate that there is no additional consideration due RIL under that action and no continuing jurisdiction of the Court, etc. over the parties.
4. The State Court in California only denied (and denied "without prejudice" which your note does not reference) adding RMail and RComm to the RIL/Khan/Tomkow judgment via a motion to amend based on, among other things, representations made by those parties' counsel. Those representations are at odds with newly discovered evidence will be addressed with the Superior Court.

Please provide the requested information and documentation. We are not encouraging you to file any motion and find no good cause therefor. If you can provide the requested information/documentation by this time tomorrow, I will promptly review same and advise on Thursday (and assuming there are no issues with that which has been provided) whether the notice will or will not be withdrawn.

I look forward to your cooperation.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampello, APC

9600 Topanga Canyon Boulevard, Suite 200

Chatsworth, California 91311

818-998-3300 T

818-998-3344 F

thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Tuesday, September 17, 2013 8:07 AM
To: Lewis Hudnell
Cc: Patrick McGarrigle; Michael Kenney; Winston Huff; djagai; Casey Goolsby
Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

We still have not heard back from you regarding our request for a meet and confer. Please let us know your availability for a call today. Otherwise, we will assume that you will not withdraw your notice and we plan to file our motion today indicating that you could not be reached to meet and confer.

Lewis

On Friday, September 13, 2013, Lewis Hudnell wrote:

Dear Patrick,

On the first point,

1. All of the plaintiffs object to the notice of lien. The remaining plaintiffs are RPost Holdings, RPost Communications, and RMail. I use RPost as shorthand to refer to the plaintiffs collectively. I fail to see how that underscores anything.

2. Only three of the consolidated cases are pending: 2:11-cv-299, 2:11-cv-300, 2:11-cv-325. RPost International is not a party to these cases. All of the cases involving RPost International have been dismissed. You can confirm this by looking at the docket.

3. RPost International was only a plaintiff in 2:11-cv-6, 2:11-cv-16, and 2:11-cv-64. All of these cases have been dismissed. Again, you can confirm this by looking at the docket.

On the second point, please see 60:23-61:10 of the August 30, 2013 hearing transcript in YC61581 where Judge Rice states that Mr. Barton has no right to collect from RPost Communications and RMail.

The third point is irrelevant to our request.

If based on these representations you will not withdraw the notice of lien, then we again request your availability to meet and confer in advance of our filing a motion to remove the notice of lien. Many thanks.

Lewis E. Hudnell, III

d: 347.855.4772

f: 347.772.3034

m: 917.861.3494

e: lewis@colvinhudnell.com



www.colvinhudnell.com

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EXHIBIT F

Patrick McGarrigle

From: Patrick McGarrigle
Sent: Wednesday, October 16, 2013 8:05 AM
To: lewis@colvinhudnell.com
Cc: Michael Kenney (MichaelK@mkzlaw.com); Winston Huff (whuff@huffip.com)
Subject: RE: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Lewis:

Thank you for your recent email and partial record production. We have reviewed what you have provided thus far and have the following further meet and confer response. We also note that you have filed a motion to strike, notwithstanding that RIL has not complied with our requests made to you during our discussions in September. We hope that you will reconsider and fully comply with the requests so that a meaningful and fair discussion can be had about the propriety of your request that the judgment lien be withdrawn.

In our discussion several weeks ago, I requested (in addition to what you provided):

A declaration from RPost International Ltd. (RIL) (and preferably from an authorized board member other than Khan or Tomkow) under oath that:

(a) it had assigned all of its rights and claims arising out of the patents to which it held and/or had held a license and when it did so and the consideration therefor (and that RIL provide true and correct copies of documents evidencing same including board minutes for RIL authorizing the claimed transactions and affirmation in writing that all shareholders of RIL had specific notice of and had approved the above transactions);

(b) RIL (nor any of RIL's officers/directors/shareholders) has and had no rights (actual, residual, contingent, liquidated or unliquidated) to any of the proceeds from any of the pending cases before the Court in the Eastern District or payment therefrom;

(c) the terms of the Zix Corp settlement were fully performed and there were no further payments due from Zix to RIL under the settlement and that the Court does not have continuing jurisdiction over said parties regarding performance of the settlement;

(d) provides true and correct copies of the RIL-Zix Corp settlement (in whatever form(s) it took – license agreement, royalty agreement, etc.)(and the economic terms clearly articulated) and the executed and approved RIL board minutes authorizing same (and attesting to shareholder approval) to verify your client's statements; and

(e) Khan and Tomkow had, after full disclosure of all material facts to the RIL shareholders, the authority to enter into the transactions and the Zix settlement.

Unfortunately, these necessary documents were not provided, though weeks have been accorded to allow same to be gathered and produced. I had expressed to you in some detail that Khan and Tomkow's standing to act and their conflicts of interest on countless levels removed any basis for their actions in the cases in the Eastern District, and elsewhere.

As you also know, Mr. Khan, et al. were adjudicated to have committed fraud and intentional breaches of fiduciary duty including, without limitation, falsifying, for the purpose of attempting to steal Mr. Barton's 20% equity in RIL, various RIL corporate resolutions through forgery (cutting and pasting Mr. Barton's signature

onto fabricated and altered "minutes" years after Mr. Barton was no longer with RIL and without Mr. Barton's knowledge or consent). Mr. Khan admitted the Barton "signatures" were placed on the fabricated minutes without Mr. Barton's knowledge or consent. Mr. Khan, et al. were also adjudicated to have destroyed the corporate shareholder registries of RIL which can only fairly be described, in addition to fraud, as an obstruction of the judicial process. Hence, sending us only purported license "termination" agreements executed by Khan/Tomkow are insufficient on their face to answer the call of the question. Under oath affirmations and delivery of the requested documents are reasonable and necessary given Messrs. Khan and Tomkow's penchant for record manipulation and destruction and piece-mealing the release of responsive documents to suit their own purposes.

While you have elected to, notwithstanding your client's decision not to comply with our reasonable requests, file the Motion to Strike, we again invite your client to immediately comply. We request that you take the Motion to Strike off calendar today. If RIL provides the requested information under oath and documentation and same is complete and in order, in good faith, we can then discuss the withdrawal, without prejudice, of the judgment lien arising from the \$4M California Judgment against RIL. As you know, RIL has not posted an appeal bond in California and, hence, the pendency of their appeal, as it is, does not stay enforcement of the judgment.

If you are unwilling or without authority to comply with our requests for verified information and documentation and/or are unwilling to withdraw the Motion to Strike (without prejudice), we will provide the Court with this further communication and request a hearing on the matter and the relief set forth herein.

If you wish to discuss this matter further, I am available after 10 a.m. PST to discuss.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampietro, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
818-998-3300 T
818-998-3344 F
thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Wednesday, September 25, 2013 6:37 AM
To: Patrick McGarrigle
Cc: Michael Kenney; Winston Huff; djagai
Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

Following up on our discussion, please let me if you will agree to withdraw the notice of lien. Thanks.

Lewis

On Wednesday, September 18, 2013, Lewis Hudnell wrote:
Dear Patrick,

As discussed, please see the attached agreement relating to the license of the Feldbau patents. RIL originally licensed these patents to RPH. That license was cancelled and superseded by a license from RPC to RPH. This document is designated Highly-Confidential Outside Attorneys Eyes Only and should be treated as such under Local Patent Rule 2-2. Please let me know if you need any additional information. Many thanks.

Lewis E. Hudnell, III
d: 347.855.4772
f: 347.772.3034
m: 917.861.3494
e: lewis@colvinhudnell.com

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On Tue, Sep 17, 2013 at 5:19 PM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Mr. Hudnell:

I was hoping that we would have a substantive discussion once you provided the evidence we have requested. Instead, your note suggests an interest in form over substance, which is unfortunate.

As you know, one of the ways to have a meaningful meet and confer is if information/documentation germane to the issues are first shared so that the subsequent discussion is not a game but productive. Asserting that you'll only "answer these questions by phone" is tantamount to suggesting that you're not willing to stand by what you put in writing, so that we end up with a dispute over what was allegedly said or not said in a conference call. Given the fraudulent history of the Khan/Tomkow/RPost parties' in and out of a variety of judicial proceedings, requiring advance support for your representations and clarity regarding your

representations (so that we can consider them promptly) is part and parcel of a meaningful meet and confer occurring. Your note does not provide any reason for your simply not already providing what we requested so we can get the core questions.

Regrettably, it appears that you are seemingly intent upon checking the telephonic meet and confer box while not providing basic, meaningful information and documentation to allow the meet and confer to be productive. I will gladly discuss this matter with you and do so without suggesting that your unwillingness to supply the information/documentation in writing is appropriate or a discharge of your meet and confer obligations or is our client waiving any rights in connection therewith. It may well be that your providing that information/documentation will obviate the need for a motion and/or demonstrate that no basis for requesting the withdrawal of the notice of lien exists; not providing same and then complaining about the lien is counter-intuitive to the filing of a good faith motion, much less conducting a productive meet and confer.

In any case, and without prejudice, you are free to call me at 2:45 p.m. PST today.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampello, APC

9600 Topanga Canyon Boulevard, Suite 200

Chatsworth, California 91311

818-998-3300 T

EXHIBIT G

Patrick McGarrigle

From: Patrick McGarrigle
Sent: Wednesday, October 16, 2013 2:40 PM
To: 'Lewis Hudnell'
Cc: Michael Kenney; Winston Huff (whuff@huffip.com)
Subject: RE: FW: Barton v. RPost, et al. (Our File No. 8681-006)

Importance: High

Dear Lewis:

Thank you for your note. Our requests since September have been specific and the RPost Parties' decision not to cooperate is manifest.

There is no "wild goose chase" as you speciously assert. But what is clear is why you declined to engage in any meet and confer in writing from the start, instead insisting on a phone call to discuss. The Rpost Parties simply did not intend to comply with our requests, as your emails today makes clear, and instead hope to delay and stall (even offering up the curious and unsubstantiated assertion that there are no writings memorializing the terms for the disposition of the RIL-Zix lawsuit).

We'll remain open to your clients providing the declaration and the evidence requested to substantiate your assertion that RIL has no interest in the IP, the IP litigation or the settlement proceeds. If the RPost Parties were being straight about any of this, we would have received the declaration and the requested documents and then been able to address your assertion that RIL has no interest in these matters with reasonable evidence from you verifying same.

We invite you, again, to cooperate.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampietro, APC
9600 Topanga Canyon Boulevard, Suite 200
Chatsworth, California 91311
818-998-3300 T
818-998-3344 F
thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Wednesday, October 16, 2013 1:40 PM
To: Patrick McGarrigle
Cc: Michael Kenney; Winston Huff (whuff@huffip.com)
Subject: Re: FW: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

Again, we have complied with all of your requests. On our call, I went down each item of your September 17th email and provided substantive responses. I also provided you the next day, not days later, the only document you requested during our call. Today is the first time that we are hearing that the document that you requested is not sufficient. If you had indicated that on our call as you claim, then I would not have sent it to you. I sent it because you requested it.

It appears that you are on a fishing expedition because with each successive email you request additional information that you have not previously requested. None of your previous emails before today requested a declaration. Your latest email even requests items that you never before requested and that you did not even request in your email from this morning, such as the Amazon/Paypal settlement agreement. RPost International was not even a party to that case.

RPost is not going to engage in a wild goose chase. If there is a specific document that you want, then name it. Like I said, I will inquire about a declaration. There is no Zix written settlement agreement. There is no Zix written license agreement. Corporate minutes is too vague. We are not responding to discovery requests and Barton's notice does not entitle him to discovery from RPost to prove his right to a lien. Barton should have had a basis for his notice before filing it. And we are certainly going to point out to Judge Gilstrap that it appears that he does not in response to your opposition.

Lewis E. Hudnell, III
d: 347.855.4772
f: 347.772.3034
m: 917.861.3494
e: lewis@colvinhudnell.com

 **colvin hudnell**
IP SOLUTIONS
www.colvinhudnell.com

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On Wed, Oct 16, 2013 at 3:40 PM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Dear Lewis:

Thank you for your email, but, no, you did not and have not complied with our specific requests for information/documentation to work to resolve these issues.

Respectfully, it is not incumbent upon us to continue to hound you for information/documentation which was specifically requested in a phone call that occurred because you declined to respond to our written requests. I was clear in our call that the purported 'termination' agreements signed by Khan and Tomkow were not going to be sufficient, but you sent them anyway. Asking days later, then, if we needed "additional information" was gratuitous; we had just advised you a day or two earlier that the "termination" agreements were dubious and not controlling and insufficient to substantiate your assertions and that other specific documentation and a declaration was required. Notably, during our mid-September call, I advised you that a declaration (from an officer/director other than Khan/Tomkow) attesting to the facts you purported to hold as true was required because the representation of counsel on such matters was not sufficient, particularly given the history of Khan and Tomkow in regards to document forgery and destruction (and duplicitous testimony) and that the documents concerning the Zix settlement and Amazon/PayPal settlements, etc., corporate minutes, etc. (as outlined again in our email earlier today) were required because of RIL's status as a plaintiff and owner of the claims.

You said you would talk with your clients and asserted that there's no 'settlement agreement' with Zix but there may be a license agreement. Again, by submitting only the 'termination' agreement and ignoring our requests and then filing your motion, you've clearly indicated that your clients will not cooperate. Feigning that the declaration and document requests were not made during our conference call because we have not spent more legal time pressing your clients to comply is hardly meaningful; we asked you for a declaration and supporting documents and your clients declined to provide it. You could certainly propose a protective order as a condition to providing the settlement documents to resolve that issue if your clients had any intent to cooperate and be forthright.

In any case, I wrote to you again today to accord your clients the opportunity to resolve these issues informally before the opposition had to be filed. If your clients are going to provide the source documents regarding the settlements and the corporate minutes and declaration, then our suggestion that the motion to strike be withdrawn and your client prove up its assertion that RIL (who you concede had the IP and whose IP rights were, at worst, held by RMail in trust) has no interest in the IP litigation or settlements, can proceed over the next several weeks. If that can be proven up conclusively, a withdrawal of the lien without prejudice may be possible. However, if your clients continue to decline to cooperate, they are forcing these issues to come before the Court. We will ask the Court to order the turnover of the documentation and production of the under oath declaration.

So, barring confirmation of a change of position by your clients, we will file the Opposition with the Court today.

Best regards,

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampello, APC

9600 Topanga Canyon Boulevard, Suite 200

Chatsworth, California 91311

818-998-3300 T

818-998-3344 F

thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Wednesday, October 16, 2013 12:11 PM
To: Patrick McGarrigle
Cc: Michael Kenney; Winston Huff (whuff@huffip.com)

Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

We have complied with all of your requests to date. After our discussion, I sent you two follow up emails, to which you did not respond. Your email today is the first time that you have requested a declaration. Indeed, in my first follow up email to our conversation from nearly a month ago, I specifically asked whether you needed any additional information. I would not have asked if I thought that you were expecting a declaration. If you had responded then, then perhaps we could have avoided filing our motion. But the fact that you didn't and the fact that you are raising this issue two weeks after we filed our motion belies your claim that you were

expecting a declaration. Moreover, it is not RPost's job to prove that there is no basis for the lien. It is Barton's job to prove that there is a basis for the lien.

That said, I will check with RPost regarding your request for a declaration. I have already advised you that the Zix mediation did not result in a written settlement. All other documents are subject to the restrictions of the mediation agreement, the EDTX mediation plan, and/or privileged and therefore cannot be shared.

Lewis E. Hudnell, III

d: 347.855.4772

f: 347.772.3034

m: 917.861.3494

e: lewis@colvinhudnell.com



www.colvinhudnell.com

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On Wed, Oct 16, 2013 at 11:05 AM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Dear Lewis:

Thank you for your recent email and partial record production. We have reviewed what you have provided thus far and have the following further meet and confer response. We also note that you have filed a motion to strike, notwithstanding that RIL has not complied with our requests made to you during our discussions in September. We hope that you will reconsider and fully comply with the requests so that a meaningful and fair discussion can be had about the propriety of your request that the judgment lien be withdrawn.

In our discussion several weeks ago, I requested (in addition to what you provided):

A declaration from RPost International Ltd. (RIL) (and preferably from an authorized board member other than Khan or Tomkow) under oath that:

(a) it had assigned all of its rights and claims arising out of the patents to which it held and/or had held a license and when it did so and the consideration therefor (and that RIL provide true and correct copies of documents evidencing same including board minutes for RIL authorizing the claimed transactions and affirmation in writing that all shareholders of RIL had specific notice of and had approved the above transactions);

(b) RIL (nor any of RIL's officers/directors/shareholders) has and had no rights (actual, residual, contingent, liquidated or unliquidated) to any of the proceeds from any of the pending cases before the Court in the Eastern District or payment therefrom;

(c) the terms of the Zix Corp settlement were fully performed and there were no further payments due from Zix to RIL under the settlement and that the Court does not have continuing jurisdiction over said parties regarding performance of the settlement;

(d) provides true and correct copies of the RIL-Zix Corp settlement (in whatever form(s) it took – license agreement, royalty agreement, etc.)(and the economic terms clearly articulated) and the executed and approved RIL board minutes authorizing same (and attesting to shareholder approval) to verify your client's statements; and

(e) Khan and Tomkow had, after full disclosure of all material facts to the RIL shareholders, the authority to enter into the transactions and the Zix settlement.

Unfortunately, these necessary documents were not provided, though weeks have been accorded to allow same to be gathered and produced. I had expressed to you in some detail that Khan and Tomkow's standing

to act and their conflicts of interest on countless levels removed any basis for their actions in the cases in the Eastern District, and elsewhere.

As you also know, Mr. Khan, et al. were adjudicated to have committed fraud and intentional breaches of fiduciary duty including, without limitation, falsifying, for the purpose of attempting to steal Mr. Barton's 20% equity in RIL, various RIL corporate resolutions through forgery (cutting and pasting Mr. Barton's signature onto fabricated and altered "minutes" years after Mr. Barton was no longer with RIL and without Mr. Barton's knowledge or consent). Mr. Khan admitted the Barton "signatures" were placed on the fabricated minutes without Mr. Barton's knowledge or consent. Mr. Khan, et al. were also adjudicated to have destroyed the corporate shareholder registries of RIL which can only fairly be described, in addition to fraud, as an obstruction of the judicial process. Hence, sending us only purported license "termination" agreements executed by Khan/Tomkow are insufficient on their face to answer the call of the question. Under oath affirmations and delivery of the requested documents are reasonable and necessary given Messrs. Khan and Tomkow's penchant for record manipulation and destruction and piece-mealing the release of responsive documents to suit their own purposes.

While you have elected to, notwithstanding your client's decision not to comply with our reasonable requests, file the Motion to Strike, we again invite your client to immediately comply. We request that you take the Motion to Strike off calendar today. If RIL provides the requested information under oath and documentation and same is complete and in order, in good faith, we can then discuss the withdrawal, without prejudice, of the judgment lien arising from the \$4M California Judgment against RIL. As you know, RIL has not posted an appeal bond in California and, hence, the pendency of their appeal, as it is, does not stay enforcement of the judgment.

If you are unwilling or without authority to comply with our requests for verified information and documentation and/or are unwilling to withdraw the Motion to Strike (without prejudice), we will provide the Court with this further communication and request a hearing on the matter and the relief set forth herein.

If you wish to discuss this matter further, I am available after 10 a.m. PST to discuss.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampello, APC

9600 Topanga Canyon Boulevard, Suite 200

Chatsworth, California 91311

818-998-3300 T

818-998-3344 F

thefirm@mkzlaw.com

From: Lewis Hudnell [mailto:lewis@colvinhudnell.com]
Sent: Wednesday, September 25, 2013 6:37 AM

To: Patrick McGarrigle
Cc: Michael Kenney; Winston Huff; djagai
Subject: Re: Barton v. RPost, et al. (Our File No. 8681-006)

Dear Patrick,

Following up on our discussion, please let me if you will agree to withdraw the notice of lien. Thanks.

Lewis

On Wednesday, September 18, 2013, Lewis Hudnell wrote:

Dear Patrick,

As discussed, please see the attached agreement relating to the license of the Feldbau patents. RIL originally licensed these patents to RPH. That license was cancelled and superseded by a license from RPC to RPH. This document is designated Highly-Confidential Outside Attorneys Eyes Only and should be treated as such under Local Patent Rule 2-2. Please let me know if you need any additional information. Many thanks.

Lewis E. Hudnell, III

d: 347.855.4772

f: 347.772.3034

m: 917.861.3494

e: lewis@colvinhudnell.com



www.colvinhudnell.com

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On Tue, Sep 17, 2013 at 5:19 PM, Patrick McGarrigle <PatrickM@mkzlaw.com> wrote:

Mr. Hudnell:

I was hoping that we would have a substantive discussion once you provided the evidence we have requested. Instead, your note suggests an interest in form over substance, which is unfortunate.

As you know, one of the ways to have a meaningful meet and confer is if information/documentation germane to the issues are first shared so that the subsequent discussion is not a game but productive. Asserting that you'll only "answer these questions by phone" is tantamount to suggesting that you're not willing to stand by what you put in writing, so that we end up with a dispute over what was allegedly said or not said in a conference call. Given the fraudulent history of the Khan/Tomkow/RPost parties' in and out of a variety of judicial proceedings, requiring advance support for your representations and clarity regarding your representations (so that we can consider them promptly) is part and parcel of a meaningful meet and confer occurring. Your note does not provide any reason for your simply not already providing what we requested so we can get the core questions.

Regrettably, it appears that you are seemingly intent upon checking the telephonic meet and confer box while not providing basic, meaningful information and documentation to allow the meet and confer to be productive. I will gladly discuss this matter with you and do so without suggesting that your unwillingness to supply the information/documentation in writing is appropriate or a discharge of your meet and confer obligations or is our client waiving any rights in connection therewith. It may well be that your providing that information/documentation will obviate the need for a motion and/or demonstrate that no basis for requesting the withdrawal of the notice of lien exists; not providing same and then complaining about the lien is counter-intuitive to the filing of a good faith motion, much less conducting a productive meet and confer.

In any case, and without prejudice, you are free to call me at 2:45 p.m. PST today.

Patrick C. McGarrigle, Esq.

McGarrigle, Kenney & Zampietro, APC

9600 Topanga Canyon Boulevard, Suite 200

Chatsworth, California 91311

818-998-3300 T

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all who have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ Patrick C. McGarrigle